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CHAPTER VII—AGRICULTURAL ADJUSTMENT ADMINISTRATION

[41-Tob-57]

PART 724—BURLEY TOBACCO

SUBPART E—1942

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GENERAL

§ 724.331 *Definitions.* As used in the regulations in this subpart and in all instructions, forms and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) "Act" means the Agricultural Adjustment Act of 1938 and any amendments thereto.

(b) "Committee" means a committee within a county or community established under the Soil Conservation and Domestic Allotment Act. "County Committee", "Local Committee", or "Community Committee" shall have corresponding meanings in the connection in which they are used.

(c) "County office" means the office of the County Agricultural Conservation Association, or the county or local committees or employees of such association, according to the sense in which such term is used.

(d) "Dealer" means a person who engages, to whatever extent, in the business of acquiring tobacco from producers, without regard to whether such person is registered as a dealer with the Bureau of Internal Revenue.

(e) "Farm" means any tract or tracts of land which are considered as a farm under the provisions of the 1941 Agricultural Conservation Program.

(f) "Field assistant" means any field assistant, junior field officer, or a field officer, or any other employee of the Marketing Quota Section.

(g) "Floor sweepings" means all tobacco which is dropped on the warehouse floor in the course of the warehouse operations and is picked up by the warehouseman. Any tobacco accumulated in the course of the grading of tobacco for farmers shall not be included as floor sweepings.

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(h) "Market" means the first disposition in raw or processed form of tobacco by voluntary or involuntary sale, barter or exchange, or by gift inter vivos. "Marketing" and "Marketed" shall have corresponding meanings to the term "market."

(i) "Marketing Quota" Section means the Marketing Quota Section, East Central Division, Agricultural Adjustment Administration, United States Department of Agriculture, Washington, D. C.

(j) "Nonwarehouse sale" means any marketing other than a warehouse sale.

(k) "Operator" means the person who is in charge of the supervision and the conduct of the farming operations on the entire farm.

(l) "Person" means an individual, partnership, association, corporation, estate, trust, or any agency of a State or of the Federal Government. The term "person" shall include two or more persons having a joint or common interest.

(m) "Pound" means that amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually marketed by producers, would equal one pound standard weight. The weight of redried or prized tobacco shall be increased so as to correspond with the original weight of such tobacco prior to redrying.

(n) "Producer" means a person who, as owner, landlord, tenant, share-cropper, or laborer is entitled to share in the tobacco available for marketing from the farm, or in the proceeds of the marketing, under the provisions of his agreement relating to the production of tobacco.

(o) "Resale" means the disposition by sale, barter, or exchange of tobacco which has been marketed previously.

(p) "Sale day" means the period at the end of which the warehouseman bills to buyers the tobacco so purchased during such period.

(q) "Suspended sale" means any first marketing of tobacco at a warehouse sale for which a memorandum of sale is not issued by the end of the particular sale day on which such marketing occurred.

(r) "Tobacco" means Burley tobacco classified in Service and Regulatory Announcement No. 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture as type 31. Any tobacco that has the same characteristics and corresponding qualities, colors, and lengths of Burley tobacco shall be considered Burley tobacco regardless of any factors of historical or geographical nature which can not be determined by an examination of the tobacco.

(s) "Tobacco available for marketing" means all tobacco produced on a farm in the calendar year 1941 (and any tobacco produced on the farm prior to the calendar year 1941 and carried over to the 1941–42 marketing year) which is not disposed of through use on the farm or by storage prior to the issuance of a marketing card for the farm.

(t) "Warehouseman" means a person engaged in the business of holding sales of tobacco at public auction at a warehouse during the tobacco marketing season.

(u) "Warehouse sale" means a marketing by sale at auction through a warehouse in the regular course of business.*

*§§ 724.331 to 724.363, inclusive, issued under the authority contained in 52 Stat. 38; 7 U.S.C. 1301, et seq., as amended.

§ 724.332 *Instructions and forms.* The Administrator of the Agricultural Adjustment Administration shall cause to be prepared and issued such instructions and such forms as may be deemed necessary or expedient for carrying out the regulations in this subpart.*

§ 724.333 *Tobacco subject to marketing quotas.* Any tobacco marketed during the period October 1, 1941, to September 30, 1942, inclusive, and any tobacco produced in the calendar year 1941 and marketed prior to October 1, 1941, shall be subject to the marketing quotas for the 1941–42 marketing year.*

FARM MARKETING QUOTAS [1]

§ 724.334 *Amount of farm marketing quota.* The marketing quota for a farm shall be the actual production of tobacco on the farm acreage allotment, as established for the farm in accordance with the "Procedure for Determination of Burley Tobacco Acreage Allotments for 1941" (Form 41–Tob–38 and Supplement 1). The actual production of the farm acreage allotment shall be the average yield per acre of the entire acreage of tobacco harvested on the farm in 1941 times the farm acreage allotment. The excess tobacco on any farm shall be that quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm in 1941 times the number of acres harvested in excess of the farm acreage allotment.*

§ 724.335 *Issuance of marketing card.* A marketing card shall be issued for every farm having tobacco available for marketing. The card shall be issued after information required for its preparation (including measurements of the harvested acreage of tobacco and an estimate of the actual production of tobacco) has been furnished to or obtained by the county office. If the farm operator refuses to furnish or prevents the county office from obtaining such information, the card shall show that all of the tobacco available for marketing from the farm is subject to penalty.

(a) *Within quota marketing card (Form 41–Tob–47).* A "Within Quota Marketing Card" authorizing the marketing without penalty of the actual production of tobacco on the farm acreage allotment in 1941 shall be issued for a farm (other than a farm having tobacco carried over from a crop produced prior to 1941) under the following conditions:

(1) If the harvested acreage of tobacco in 1941 is not in excess of the farm acreage allotment (except as provided in paragraph (b) (1) and (2) of this section) and the operator of the farm does not operate any other farm on which the harvested acreage exceeds the acreage allotment.

[1] Instructions for determining marketing quotas, issuing marketing cards, and with respect to the rights of producers in the quota for farms having tobacco which was produced thereon in a calendar year prior to 1941 and carried over to the 1941–42 marketing year will be issued in Supplement 1 to these regulations.

(2) If the farm is operated by a publicly owned experiment station and the tobacco is produced for experimental purposes only.

(b) *Excess marketing card (Form 41–Tob–48).* An "Excess Marketing Card" showing the extent to which marketings of tobacco from the farm are subject to penalty shall be issued for a farm under the following conditions:

(1) If the harvested acreage of tobacco in 1941 is in excess of the farm acreage allotment or the operator of the farm also operates any other farm on which the harvested acreage of tobacco in 1941 exceeds the farm acreage allotment.

(2) If the acreage of tobacco planted on the farm in 1941 is in excess of the farm acreage allotment and the operator does not dispose of the acreage in excess of the allotment prior to harvesting such tobacco and within 15 days after receiving notice of such excess acreage from the county office.

(3) If a within quota marketing card could be issued for the farm but the county committee determines that a zero percent excess marketing card is necessary to protect the interest of the government and to insure the proper identification of and accounting for the disposition of tobacco produced on the farm and the proper use of the marketing card issued for the farm.

(4) If there is tobacco available for marketing from the farm but no tobacco acreage allotment was established.

(5) If information required for preparation of the marketing card is not furnished or the county office is prevented from obtaining the necessary information.

(c) *Extent to which marketings from a farm are subject to penalty.* The extent to which marketings of tobacco from any farm are subject to penalty (except as provided in Supplement 1 to these regulations) shall be that percentage of the tobacco available for marketing from the farm which the acreage of tobacco harvested in excess of the farm acreage allotment for the farm is of the acreage of tobacco harvested from the farm (or if tobacco is disposed of without marketing after harvesting, that percentage which the amount of tobacco available for marketing from the farm in excess of the farm marketing quota is of the total amount of tobacco available for marketing from the farm). Each marketing card showing a percentage excess of zero also shall show a maximum number of pounds of tobacco which may be marketed thereunder which shall be the quantity of tobacco estimated by the county committee to be available for marketing from the crop produced on the farm. For any excess marketing card which shows a percentage excess of more than zero the county committee, if it has reason to believe it to be necessary in order to prevent marketing thereunder of tobacco produced on another farm, also shall have shown on the card a maximum number of pounds which may be marketed thereunder, such number of pounds to be determined in the same manner as for a card showing zero percent excess. The maximum number of pounds shown on any excess marketing card shall be increased by the county committee if the committee determines that the quantity of tobacco available for marketing from the crop produced on the farm is greater than the number of pounds previously estimated by the committee to be available for marketing.

(d) *Number of marketing cards and entries and signatures thereon.* One or more marketing cards may be issued for any farm as approved by the county office. All entries on each marketing card shall be made in accordance with instructions for issuing marketing cards. The Receipt and the "Operator's Agreement" on each marketing card shall be signed by the farm operator or on his behalf by his authorized representative and by the person who delivers the card to the operator.*

§ 724.336 *Disposition of excess tobacco.* The amount of excess tobacco available for marketing for any farm shall be determined on the basis of the tobacco available for marketing from the farm at the time the marketing card is issued for the farm. Disposition of excess tobacco, other than by marketing shall be made only by the farm operator (or his representative) but the county committee (or a representative of the committee) shall approve the disposition. The county committee shall cause a record to be made showing the amount of tobacco (in acres or pounds) disposed of and may require the farm operator (or his representative) to sign a statement that such record is accurate before giving approval to the disposition. If all tobacco has been harvested prior to the disposition of the excess tobacco, the amount of excess tobacco available for marketing can be reduced only to the extent that the tobacco so disposed of is representative of the tobacco available for marketing from the farm.*

§ 724.337 *Report on marketing card.* The operator of each farm on which tobacco is produced in 1941 shall return to the county office each marketing card issued for the farm whenever marketings from the farm are completed and in no event later than thirty days after the close of the tobacco auction markets for the area in which the farm is located. Failure to return the marketing card to the county office within the time specified shall constitute failure to give proof of disposition of tobacco marketed from the farm in the event that satisfactory proof of such disposition is not furnished otherwise.*

§ 724.338 *Additional reports by producers and identification of tobacco.* In addition to any other reports which may be required under the regulations in this subpart, the operator of each farm or any other person having an interest in the tobacco grown on the farm (even though the harvested acreage does not exceed the acreage allotment and even though no allotment was established for the farm) shall, upon written request by the Chief of the Marketing Quota Section, and within ten days after the deposit of such request in the United States mails addressed to such person as his last known address, furnish the Secretary of Agriculture, by sending the same to the Chief of the Marketing Quota Section, a report on Form 41–Tob–76 showing as to the farm at the time of filing said report (a) the number of acres of tobacco harvested, (b) the total production of tobacco, (c) the amount of tobacco on hand and its location, and (d) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed and the number of pounds marketed, the gross price, and the date of marketing.*

§ 724.339 *Rights of producers in marketing card.* Each producer having a share in the tobacco available for marketing from the farm shall be entitled to the use of the marketing card for marketing his proportionate share of the total amount of tobacco available for marketing from the farm.*

§ 724.340 *Successors in interest.* Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from the farm shall, to the extent of such succession, have the same rights as the producer to the use of marketing card for the farm.*

§ 724.341 *Person authorized to issue cards.* The county committee shall designate one person to sign marketing cards for farms in the county as issuing agent. No marketing card shall be signed by the issuing agent until all other entries required to be made thereon have been made, except that the operator's receipt therefor and the Operator's Agreement therein may be signed after the issuing agent has signed the card, but prior to its delivery to the farm operator. Only one person shall be designated as issuing agent but such person may, subject to the approval of the county committee, designate not more than three persons to sign his name in issuing marketing cards: *Provided,* That each such person shall place his initials immediately beneath the name of the issuing agent as written by him on the card.*

§ 724.342 *Invalid cards.* A marketing card shall be invalid under any of the following conditions:

(a) If it is not issued or delivered in the form and manner prescribed;

(b) If entries are not made thereon as required;

(c) If it is lost, destroyed, stolen, or becomes illegible;

(d) If any erasure has been made; or

(e) If any alteration has been made and not properly initialed.

In the event any marketing card becomes invalid (other than by loss, destruction, theft, omission, alteration, or incorrect entry which can be corrected

by a field assistant) the farm operator (or the person having the card in his possession) shall return it to the county office at which it was issued.

If any marketing card is lost, destroyed, stolen, or altered, the person having knowledge of such loss, destruction, theft, or alteration shall notify the county office to that effect, and the county office shall immediately notify the field office of the Marketing Quota Section for the belt.

If any marketing card which was reported as lost, destroyed, stolen, or altered is later received by the county office, the county office shall immediately notify the field office of the Marketing Quota Section of the receipt of such card.

At the end of two weeks after receipt of notice of loss, destruction or theft of any marketing card the county office may issue a duplicate marketing card to replace the lost, destroyed, or stolen card in accordance with instructions issued pursuant to the regulations in this subpart.

In the event any marketing card was improperly issued, has been altered, or become illegible, upon the return of the card to the county office a new marketing card shall be issued immediately, or as soon thereafter as the necessary information is available.

If any entry is not made on a marketing card as required (either through omission or incorrect entry) and the proper entry is made by a field assistant then such card shall become valid. If the field assistant is unable to make the proper entry, he shall return the card to the county office where it shall be retained until such entry is made, or a new marketing card is issued, as provided above.*

§ 724.343 *Additional cards and disposition of used cards.* Upon the return to the county office of the marketing card after all the memoranda of sale have been issued therefrom and before the marketing of tobacco from the farm has been completed, a new marketing card of the same kind, bearing the same name, information and identification as the used card shall be issued for the farm. Any marketing card issued to replace another card shall have entered thereon the total sales as shown on the marketing card which is replaced.*

§ 724.344 *Report of probable misuse of marketing card.* Any information which causes any field assistant, a member of any local committee, or an employee of the county office to believe that any tobacco which actually was produced on another farm has been or is being marketed under the marketing card for a particular farm shall be reported immediately by such person to the field office of the Marketing Quota Section.*

§ 724.345 *No transfers.* There shall be no transfer of marketing quotas.*

MARKETING OF TOBACCO AND PENALTIES

§ 724.346 *Memorandum of sale to identify every marketing.* Each marketing of tobacco from a farm shall be identified by a memorandum of sale issued from the marketing card (Form 41–Tob–47 or 41–Tob–48) for the farm but if a memorandum of sale cannot be obtained within four weeks after the date of the marketing of any tobacco at a warehouse sale, such marketing of tobacco shall be subject to penalty and the amount of penalty shall be shown on the memorandum of sale cleared without marketing card (Form 41–Tob–68). The memorandum of sale shall be issued only by a field assistant, with the following exception:

(a) A warehouseman, or his authorized representative, who has been authorized on Form 41–Tob–75, may issue a within quota memorandum of sale to identify a warehouse sale, if a field assistant is not available at the warehouse when the card is presented by the farmer, but in such case the memorandum of sale shall be presented promptly by the warehouseman to the field assistant for verification with the warehouse records.

(b) A representative of the county office may issue memoranda of sale covering sales of tobacco by the producer in small lots by mail order or directly to various individuals other than dealers.

The authorization to issue within quota memoranda of sale under paragraph 1 above may be withdrawn from any warehouseman upon written notice by the Chief of the Marketing Quota Section.

Each excess memorandum of sale, after issuance by a field assistant, shall be checked by the warehouseman or dealer (or his representative) to determine whether the amount of penalty shown thereon to be due has been correctly computed, and the warehouseman or dealer shall be responsible for the correctness of such computations.

If the quantity of tobacco previously identified by memoranda of sale issued from any within quota marketing card is in excess of the number of pounds assigned to the card, the person issuing the memorandum shall require the farm operator to sign the "Operator's Certificate" on the back of the memorandum and if he is satisfied that such signature is the same as the signature of the farm operator on the marketing card, he may issue the memorandum. If any person other than the operator presents the marketing card, the memorandum of sale shall not be issued unless the "Authorization for Agent", on the back of such memorandum has been properly executed and signed by the operator, or by the person who presents the marketing card, in the event that such person signs his name as agent of the farm operator and places his address immediately beneath his signature. Any person authorized to issue a memorandum of sale under either of the above described circumstances who has reason to believe that the tobacco to be covered by the memorandum was not produced on the farm for which the marketing card containing the memorandum was issued, may or may not issue the memorandum as he considers advisable, but in either event he shall immediately make a written report of the circumstances in the case to the field office of the Marketing Quota Section for the area in which the tobacco is sold.*

§ 724.347 *Bill of nonwarehouse sale.* Each marketing of tobacco, except a warehouse sale, shall be identified by a Bill of Nonwarehouse Sale (Form 41–Tob–64) completely executed by the buyer and the farm operator, except for the entry of the serial number of the memorandum of sale. The post card copy (Form 41–Tob–64a) shall be mailed by the farm operator not later than the day following the day on which executed. The original of each Bill of Nonewarehouse Sale covering any marketing shall be presented to a field assistant for issuance of a memorandum of sale or a memorandum of sale cleared without marketing card) and for recording in the Dealer's Record Book in case of a purchase by a dealer other than a warehouseman.*

§ 724.348 *Marketings free of penalty.* Any tobacco marketed from a farm which is identified by a valid memorandum of sale from the marketing card issued for the farm shall be free of penalty to the extent shown by the memorandum of sale.*

§ 724.349 *Marketings subject to penalty and collection of penalties*—(a) *Farm tobacco.* With respect to tobacco marketed from farms, having excess tobacco available for marketing, the penalty shall be paid upon that proportion of each lot of tobacco which the tobacco available for marketing in excess of the farm quota (at the time of issuance of the marketing card) is of the total amount of tobacco available for marketing from the farm. The memorandum of sale issued to identify such marketing of tobacco shall show that portion of such marketing which is subject to penalty and any portion of such marketing of tobacco which is not shown by the memorandum as being subject to penalty shall be free of penalty.

(b) *Dealer's tobacco.* Any marketing of tobacco by a dealer which such dealer represents to be a resale, but all or any part of which, when added to prior resales by such dealer as shown on the Dealer's Record, is in excess of the total amount of purchases as shown on such Dealer's Record shall be a marketing of tobacco subject to penalty unless and until the dealer furnishes proof acceptable to the Secretary showing that such tobacco is not subject to penalty. Any marketing of tobacco by a dealer which such dealer represents to be a resale of tobacco previously purchased by him but which, because of the difference in the price at which such tobacco is resold as compared with the price at which he had purchased the tobacco, cannot reasonably be regarded as tobacco previously purchased by him shall be taken to be a marketing of tobacco subject to penalty.

(c) *Tobacco not identified by a valid memorandum.* Any marketing of tobacco which is not identified by a valid memorandum of sale shall be subject to penalty.

(d) *Liability in case of error on memorandum.* The person liable for the payment of the penalty upon any marketing of tobacco shall not be relieved of such liability because of any error which may occur on the memorandum of sale.*

§ 724.350 *Persons to pay penalty and deduction from purchase price*—(a) *Warehouse sale.* If the tobacco is marketed by the producer through a warehouseman the penalty shall be paid by the warehouseman, who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) *Sale other than warehouse sale.* If the tobacco is acquired from the producer in any manner other than through a warehouse sale, the penalty shall be paid by the person who acquired the tobacco, but such person may deduct an amount equivalent to the penalty from the price paid to the producer.

(c) *Agent.* If the tobacco is marketed by the producer through an agent who is not a warehouseman, the penalty shall be paid by the agent, who may deduct an amount equivalent to the penalty from the price paid to the producer.

(d) *Agent in case of false representation.* If any person markets tobacco representing that such tobacco is being marketed from one farm when in fact such tobacco is being marketed from another farm, then such person, as agent, shall pay any penalty due upon such marketing of tobacco.

(e) *Warehouseman and dealer on dealer's tobacco.* Any penalty due upon tobacco subject to penalty under § 724.-349 (b) shall be paid by the warehouseman, who may deduct an amount equivalent to the penalty from the price paid to the dealer, but the dealer shall not be relieved of responsibility for payment of such penalty.

(f) *Producer marketing outside United States.* If the tobacco is marketed by the producer directly to any person outside the United States, the penalty shall be paid by the producer.

(g) *Producer on behalf of buyer in case of mail order or direct sales in small lots.* If the tobacco is marketed in small lots by the producer by mail order sales or directly to various individuals other than dealers, the penalty may be paid by the producer of such tobacco on behalf of the various buyers. In such case the buyer of such tobacco shall be relieved of the penalty to the extent that it is paid by the producer.*

§ 724.351 *Amount of penalty.* The penalty shall be ten cents per pound upon any marketing of tobacco which is not identified under the regulations in this subpart as being free from penalty.*

§ 724.352 *Penalty for false identification or failure to account for disposition of tobacco.* If any producer falsely identifies or fails to account for disposition of any tobacco, an amount of tobacco equal to the normal yield (determined under the 1941 Agricultural Conservation Program) of the number of acres harvested in 1941 in excess of the farm acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm and the penalty in respect thereof shall be paid and remitted by the producer.*

§ 724.353 *Payment of penalty.* Penalties upon the marketing of tobacco shall become due at the time of the marketing, and shall be paid by remitting the amount thereof to the Marketing Quota Section, Agricultural Administration, Washington, D. C., not later than the end of the calendar week following the week in which the memorandum of sale was issued, or, in the event a memorandum is not issued, not later than four weeks after the date upon which the tobacco was sold. A draft, money order, or check, payable to the order of the Treasurer of the United States may be used to pay any penalty, but any such draft, or check shall be received subject to payment at par.*

§ 724.354 *Application for return of penalty.* Any producer of tobacco who bore the burden of the payment of any penalty collected may file an application for return of any amount of such penalty which is in excess of that amount equal to ten cents per pound upon the number of pounds marketed in excess of the farm marketing quota. Any application for the return of any penalty shall be filed on Form 41–Tob–74, "Application for Return of Penalty".

An application for the return of penalty filed by any producer of tobacco on a farm on which the tobacco available for marketing is in excess of the farm marketing quota shall not be approved unless (1) the marketing of tobacco from the farm has been completed and (2) disposition of all unmarketed excess tobacco has been made under the supervision of the county committee, (or its representative) and has been approved by the county committee.

Return of penalty collected upon marketings of tobacco from any farm on which the tobacco available for marketing is in excess of farm marketing quota shall be made only upon the basis of tobacco produced on the farm and, if the county committee has good cause to believe that any of the unmarketed excess tobacco as reported for the farm by the farm operator was not actually produced thereon, the application for such farm shall not be approved with respect to that tobacco which the committee has good cause to believe was not produced on the farm. The county committee shall approve an Application for Return of Penalty only with respect to that number of pounds of unmarketed excess tobacco which the committee determines is representative of the entire amount of tobacco available for marketing from the farm in the 1941–42 marketing year, taking into account the value of the unmarketed excess tobacco (which is disposed of) as appraised by the county committee (or its representative) and the value of tobacco marketed from the farm.

Any application for the return of penalty pursuant to this section shall be filed not later than sixty days before the end of the marketing year next succeeding that in which the penalty is collected.*

RECORDS AND REPORTS

§ 724.355 *Warehouseman's records and reports*—(a) *Record of marketings.* Each warehouseman shall keep such records as will enable him to furnish to the Secretary of Agriculture a report of the following information with respect to each sale or resale of tobacco made at his warehouse; the name of the seller (and, in the case of a sale for a producer, the name of the operator of the farm on which the tobacco was produced), the name of the purchaser, the date of sale, the number of pounds sold, the sale price, the amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer (or a dealer). All purchases and resales for the warehouse leaf account shall be so identified in the records and a separate account shall be maintained with respect to the amount of floor sweepings picked up and the disposition of such floor sweepings. The quantity of floor sweepings, including bundles, leaves and scrap, picked up by the warehouse after each sale shall be reported in the space provided on the Auction Warehouse Report (Form 41–Tob–66). Any warehouseman who grades tobacco for farmers shall maintain a separate account showing the approximate amount of grading house scrap obtained from the tobacco graded from each farm. In the case of resales for dealers the name of the dealer making each resale shall be shown on the warehouse records so that the individual lots of tobacco sold by the dealer can be identified.

(b) *Identification of sale on check register.* The serial number of the memorandum of sale issued to identify each marketing of tobacco from a farm, or the number of the warehouse bill(s) covering each such marketing, shall be recorded on the check register or check stub for the check written with respect to such sale of tobacco.

(c) *Memorandum of sale record and bill of nonwarehouse sale record.* A record in the form of a valid memorandum of sale (or a memorandum of sale cleared without marketing card) shall be obtained by every warehouseman to cover each marketing of tobacco from a farm through the warehouse, and if a warehouseman buys tobacco directly from a farmer (other than at a warehouse auction sale as defined in the regulations in this subpart), such warehouseman shall obtain a valid memorandum of sale to cover each such purchase of tobacco, together with a properly executed Bill of Nonwarehouse Sale (Form 41–Tob–64). Any warehouseman who ob-

tains possession of any grading house scrap in the course of grading tobacco from any farm shall obtain a memorandum of sale to cover the amount of such scrap tobacco from such farm.

(d) *Suspended sale record.* Any warehouse bills (except bills for resale tobacco) for which memoranda of sale have not been issued at the end of the sale day shall be presented to a field assistant who shall stamp such bills as "suspended," write thereon the serial number of the suspended sale, and record the bills on the Register of Suspended Sales (Form 41–Tob–62): *Provided,* That if a field assistant is not available, the warehouseman may stamp such bills suspended and deliver them to a field assistant as soon as one becomes available.

(e) *Warehouse entries on dealers' records.* Each warehouseman shall enter on each Dealer's Record (Form 41–Tob–65) the total of purchases and resales made by such dealer during each sale day at the warehouse. If any tobacco resold by the dealer is tobacco bought by him from a crop produced prior to 1941 the entry on the Dealer's Record shall clearly show such fact.

(f) *Daily report of warehouse business and report of penalties.* Each warehouseman shall make reports on Form 41–Tob–66, Auction Warehouse Report, and on Form 41–Tob–67, Listing of Penalties, showing the information required on the respective reports. Form 41–Tob–66 shall be prepared for each sale day and all reports for the sale days occurring during any week shall be forwarded to the Marketing Quota Section at or before the end of the next following calendar week. Form 41–Tob–67 shall be prepared for each week and the report for each week shall be forwarded, together with the remittance of the penalty due, as shown thereon, to the Marketing Quota Section not later than the end of the next following calendar week.

(g) *Summary of warehouse accounts.* Each warehouseman shall assist field assistants to prepare summaries of the warehouse account by making available all records kept and reports made by the warehouse as required by the regulations in this subpart.

(h) *Additional records and reports.* In addition to the records and reports provided above, each warehouseman shall keep such additional records and make such additional reports to the Secretary of Agriculture as the Chief of the Marketing Quota Section may find necessary in order to enforce the regulations in this subpart.*

§ 724.356 *Dealer's records and reports.* Each dealer, except as provided in § 724.357 below, shall keep the records and make the reports as provided by this section.

(a) *Report of dealer's name, address and registration number.* Each dealer shall properly execute and the field assistant shall detach and forward to the Marketing Quota Section the page "Receipt for Dealer's Record" contained in Form 41–Tob–65, "Dealer's Record" which is issued to the dealer.

(b) *Record and report of purchases and resales.* Each dealer shall keep a record and make reports on Form 41–Tob–65, "Dealer's Record", showing all purchases and resales of tobacco made by the dealer and, in the event of resale of tobacco bought from a crop produced prior to 1941, the fact that such tobacco was bought by him and carried over from a crop produced prior to 1941.

(c) *Report of penalties.* Each dealer shall make a report on Form 41–Tob–67 showing the information with respect to all purchases subject to penalty made by him during each calendar week. The amount of penalty shown to be due by each such report shall be remitted with the report.

(d) *Memorandum of sale record and Bill of Nonwarehouse Sale record.* For each lot of tobacco purchased from a farmer each dealer shall obtain a record in the form of a valid memorandum of sale issued by a representative of the Marketing Quota Section. No memorandum of sale shall be issued unless: (1) the farm operator or his authorized agent has signed the "Operator's Certificate" on the back of the memorandum and (2) unless a properly executed Bill of Nonwarehouse Sale (Form 41–Tob–64) is presented covering such sale.

(e) *Additional records.* Each dealer shall keep such records, in addition to the foregoing, as may be necessary to enable him to furnish the following information with respect to each lot of tobacco purchased or sold by him: The name of the seller (and in the case of a purchase from a producer, the name of the operator of the farm on which the tobacco was produced), the name of the purchaser, the date of the transaction, the number of pounds and the gross sale price; and in the event of resale of tobacco bought by him and carrier over from a crop produced prior to 1941, the fact that such tobacco was so bought and carried over.

All reports shall be forwarded to the Marketing Quota Section not later than the end of the week following the calendar week covered by the reports.*

§ 724.357 *Dealers exempt from regular records and reports.* Any dealer who does not purchase or otherwise acquire tobacco except at a warehouse sale and who does not resell, in the form in which tobacco ordinarily is sold by farmers, more than ten percent of the tobacco purchased by him, shall not be subject to the provisions of § 724.356; but each such dealer shall make such reports to the Secretary of Agriculture as the Chief of the Marketing Quota Section may find necessary to enforce the regulations in this subpart.*

§ 724.358 *Records and reports of redryers, etc.* Every person engaged in the business of redrying, prizing, or stemming tobacco for producers shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each lot of tobacco received by him: The date of receipt of the tobacco, the number of pounds received, the purpose for which the tobacco was received (and if received from a producer, the name and address of the farm operator, and the code and serial number of the farm on which the tobacco was grown), the amount of advance made by him on the tobacco, and the disposition of the tobacco. Each such person shall make such reports to the Secretary of Agriculture as the Chief of the Marketing Quota Section may find necessary to enforce the regulations in this subpart.*

§ 724.359 *Separate records and reports from persons engaged in more than one business.* Any person who is required to keep any record or make any report as a warehouseman, dealer, processor, or as a person engaged in the business of redrying, prizing, or stemming tobacco for producers, and who is engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged, to the same extent for each such business as if he were engaged in no other business, except that a warehouseman shall not be required to keep a record and make reports on Form 41–Tob–65, "Dealer's Record", if the transactions which would be recorded and reported on such forms are recorded on the records kept by the warehouse in its regular course of business and reported as required on Form 41–Tob–66.*

§ 724.360 *Failure to keep record or make report.* Any warehouseman, processor, or common carrier of tobacco, or person engaged in the business of purchasing tobacco from producers, or person engaged in the business of redrying, prizing or stemming tobacco for producers, who fails to make any report or keep any record as required under the regulations in this subpart, or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required under the regulations in this subpart within fifteen days after notice to him of such violation shall be subject to an additional fine of $100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided,* That such fine shall not exceed $5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by posting the same at an established place of business operated by him, or both. Notice of any violation by a tobacco warehouseman or dealer shall be given by the Chief of the Marketing Quota Section.*

§ 724.361 *Examination of records and reports.* For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, any warehouseman, dealer, processor, common carrier or person engaged in the business of redrying, prizing or stemming tobacco for producers shall make available for examination, upon written request by the Chief of the Marketing Quota Section, such books, papers, records, accounts, correspondence, contracts, documents and memoranda as he has reason to believe are relevant and are within the control of such person.*

§ 724.362 *Length of time records and reports to be kept.* Records required to be kept and copies of the reports required to be made by any person under the regulations for the 1941–42 marketing year shall be kept by him until September 30, 1943, and for such longer period of time as may be requested in writing by the Chief of the Marketing Quota Section.*

§ 724.363 *Information confidential.* All data reported to or acquired by the Secretary of Agriculture pursuant to the provisions of these regulations shall be kept confidential by all officers and employees of the Department of Agriculture, and only such data so reported or acquired as the Secretary of Agriculture deems relevant shall be disclosed by them and then only in a suit or administrative hearing under Title III of the Act.*

By virtue of the authority vested in the Secretary of Agriculture by Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938), as amended, he does hereby make, prescribe, publish and give public notice of the foregoing regulations pertaining to dark air-cured tobacco marketing quotas for the 1941–42 marketing year to be in force and effect for said marketing year until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said Act.

Done at Washington, D. C., this 21st day of October 1941. Witness my hand and the seal of the Department of Agriculture.

[SEAL] PAUL H. APPLEBY,
Under Secretary of Agriculture.

[F. R. Doc. 41-7924; Filed, October 21, 1941; 11:31 a. m.]

[41-Tob-59]

PART 726—FIRE-CURED AND DARK AIR-CURED TOBACCO

SUBPART E—1942

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GENERAL

§ 726.318 *Definitions.* As used in the regulations in this subpart and in all instructions, forms and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject-matter otherwise requires.

(a) "Act" means the Agricultural Adjustment Act of 1938 and any amendment thereto.

(b) "Committee" means a committee within a county or community established under the Soil Conservation and Domestic Allotment Act. "County Committee", "Local Committee", or "Community Committee" shall have corresponding meanings in the connection in which they are used.

(c) "County office" means the office of the County Agricultural Conservation Association, or the county or local committees or employees of such association, according to the sense in which such term is used.

(d) "Dealer" means a person who engages, to whatever extent, in the business of acquiring tobacco from producers, without regard to whether such person is registered as a dealer with the Bureau of Internal Revenue.

(e) "Farm" means any tract or tracts of land which are considered as a farm under the provisions of the 1941 Agricultural Conservation Program.

(f) "Field assistants" means any field assistant, junior field officer, or a field officer, or any other employee of the Marketing Quota Section.

(g) "Floor sweepings" means all tobacco which is dropped on the warehouse floor in the course of the warehouse operations and is picked up by the warehouseman. Any tobacco accumulated in the course of the grading of tobacco for farmers shall not be included as floor sweepings.

(h) "Market" means the first disposition in raw or processed form of tobacco by voluntary or involuntary sale, barter or exchange, or by gift inter vivos. "Marketing" and "Marketed" shall have corresponding meanings to the term "market."

(i) "Marketing Quota Section" means the Marketing Quota Section, East Central Division, Agricultural Adjustment Administration, United States Department of Agriculture, Washington, D. C.

(j) "Nonwarehouse sale" means any marketing other than a warehouse sale.

(k) "Operator" means the person who is in charge of the supervision and the conduct of the farming operations on the entire farm.

(l) "Person" means an individual, partnership, association, corporation, estate, trust, or any agency of a State or of the Federal Government. The term "person" shall include two or more persons having a joint or common interest.

(m) "Pound" means that amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually marketed by producers, would equal one pound standard weight. The weight of redried or prized tobacco shall be increased so as to correspond with the original weight of such tobacco prior to redrying.

(n) "Producer" means a person who, as owner, landlord, tenant, share-cropper, or laborer is entitled to share in the tobacco available for marketing from the farm, or in the proceeds of the marketing, under the provisions of his agreement relating to the production of tobacco.

(o) "Resale" means the disposition by sale, barter, or exchange of tobacco which has been marketed previously.

(p) "Sale day" means the period at the end of which the warehouseman bills to buyers the tobacco so purchased during such period.

(q) "Suspended sale" means any marketing of tobacco at a warehouse sale for which a memorandum of sale is not issued by the end of the particular sale day on which such marketing occurred.

(r) "Tobacco" means fire-cured tobacco classified in Service and Regulatory Announcement No. 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture

as types 21, 22, 23, and 24, and collectively known as fire-cured tobacco.

(s) "Tobacco available for marketing" means all tobacco produced on a farm in the calendar year 1941 (and any tobacco produced on the farm prior to the calendar year 1941 and carried over to the 1941–42 marketing year) which is not disposed of through use on the farm or by storage prior to the issuance of a marketing card for the farm.

(t) "Warehouseman" means a person engaged in the business of holding sales of tobacco at public auction at a warehouse during the tobacco marketing season.

(u) "Warehouse sale" means a marketing by sale at auction through a warehouse in the regular course of business.*

*§§ 726.318 to 726.350, inclusive, issued under the authority contained in 52 Stat. 38, 7 U.S.C. 1301, et seq., as amended.

§ 726.319 *Instructions and forms.* The Administrator of the Agricultural Adjustment Administration shall cause to be prepared and issued such instructions and such forms as may be deemed necessary or expedient for carrying out the regulations in this subpart.*

§ 726.320 *Tobacco subject to marketing quotas.* Any tobacco marketed during the period October 1, 1941, to September 30, 1942, inclusive, and any tobacco produced in the calendar year 1941 and marketed prior to October 1, 1941, shall be subject to the marketing quotas for the 1941–42 marketing year.*

FARM MARKETING QUOTAS [1]

§ 726.321 *Amount of farm marketing quota.* The marketing quota for a farm shall be the actual production of tobacco on the farm acreage allotment, as established for the farm in accordance with the "Procedure for Determination of Fire-cured and Dark Air-cured Tobacco Acreage Allotments for 1941" (Form 41–Tob–33 and Supplement 1). The actual production of the farm acreage allotment shall be the average yield per acre of the entire acreage of tobacco harvested on the farm in 1941 times the farm acreage allotment. The excess tobacco on any farm shall be that quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm in 1941 times the number of acres harvested in excess of the farm acreage allotment.*

§ 726.322 *Issuance of marketing card.* A marketing card shall be issued for every farm having tobacco available for marketing. The card shall be issued after information required for its preparation (including measurements of the harvested acreage of tobacco and an estimate of the actual production of tobacco) has been furnished to or obtained by the county office. If the farm operator refuses to furnish or prevents the county office from obtaining such information, the card shall show that all of the tobacco available for marketing from the farm is subject to penalty.

(a) *Within quota marketing card (Form 41–Tob–49).* A "Within Quota Marketing Card" authorizing the marketing without penalty of the actual production of tobacco on the farm acreage allotment in 1941 shall be issued for a farm (other than a farm having tobacco carried over from a crop produced prior to 1941) under the following conditions:

(1) If the harvested acreage of tobacco in 1941 is not in excess of the farm acreage allotment (except as provided in paragraph (b) 2 and 3 of this section) and the operator of the farm does not operate any other farm on which the harvested acreage exceeds the acreage allotment.

(2) If the farm is operated by a publicly owned experiment station and the tobacco is produced for experimental purposes only.

(b) *Excess marketing card (Form 41–Tob–50).* An "Excess Marketing Card" showing the extent to which marketings of tobacco from the farm are subject to penalty shall be issued for a farm under the following conditions:

(1) If the harvested acreage of tobacco in 1941 is in excess of the farm acreage allotment or the operator of the farm also operates any other farm on which the harvested acreage of tobacco in 1941 exceeds the farm acreage allotment.

(2) If the acreage of tobacco planted on the farm in 1941 is in excess of the farm acreage allotment and the operator does not dispose of the acreage in excess of the allotment prior to harvesting such tobacco and within 15 days after receiving notice of such excess acreage from the county office.

(3) If a within quota marketing card could be issued for the farm but the county committee determines that a zero percent excess marketing card is necessary to protect the interest of the government and to insure the proper identification of and accounting for the disposition of tobacco produced on the farm and the proper use of the marketing card issued for the farm.

(4) If there is tobacco available for marketing from the farm but no tobacco acreage allotment was established.

(5) If information required for preparation of the marketing card is not furnished or the county office is prevented from obtaining the necessary information.

(c) *Extent to which marketings from a farm are subject to penalty.* The extent to which marketings of tobacco from any farm subject to penalty (except as provided in Supplement 1 to the regulations in this subpart) shall be that percentage of the tobacco available for marketing from the farm which the acreage of tobacco harvested in excess of the farm acreage allotment for the farm is of the acreage of tobacco harvested from the farm (or if tobacco is disposed of without marketing after harvesting, that percentage which the amount of tobacco available for marketing from the farm in excess of the farm marketing quota is of the total amount of tobacco available for marketing from the farm). Each marketing card showing a percentage excess of zero also shall show a maximum number of pounds of tobacco which may be marketed thereunder which shall be the quantity of tobacco estimated by the county committee to be available for marketing from the crop produced on the farm. For any excess marketing card which shows a percentage excess of more than zero the county committee, if it has reason to believe it to be necessary in order to prevent marketing thereunder of tobacco produced on another farm, also shall have shown on the card a maximum number of pounds which may be marketed thereunder, such number of pounds to be determined in the same manner as for a card showing zero percent excess. The maximum number of pounds shown on any excess marketing card shall be increased by the county committee if the committee determines that the quantity of tobacco available for marketing from the crop produced on the farm is greater than the number of pounds previously estimated by the committee to be available for marketing.

(d) *Number of marketing cards and entries and signature thereon.* One or more marketing cards may be issued for any farm as approved by the county office. All entries on each marketing card shall be made in accordance with instructions for issuing marketing cards. The Receipt and the "Operator's Agreement" on each marketing card shall be signed by the farm operator or on his behalf by his authorized representative and by the person who delivers the card to the operator.*

§ 726.323 *Disposition of excess tobacco.* The amount of excess tobacco available for marketing for any farm shall be determined on the basis of the tobacco available for marketing from the farm at the time the marketing card is issued for the farm. Disposition of excess tobacco, other than by marketing shall be made only by the farm operator (or his representative) but the county committee (or a representative of the committee) shall approve the disposition. The county committee shall cause a record to be made showing the amount of tobacco (in acres or pounds) disposed of and may require the farm operator (or his representative) to sign a statement that such record is accurate before giving approval to the disposition. If all tobacco has been harvested prior to the disposition of the excess tobacco, the amount of excess tobacco available for marketing can be reduced only to the extent that the tobacco so disposed of

[1] Instructions for determining marketing quotas, issuing marketing cards, and with respect to the rights of producers in the quota for farms having tobacco which was produced thereon in a calendar year prior to 1941 and carried over to the 1941–42 marketing year will be issued in Supplement 1 to these regulations.

is representative of the tobacco available for marketing from the farm.*

§ 726.324 *Report on marketing card.* The operator of each farm on which tobacco is produced in 1941 shall return to the county office each marketing card issued for the farm whenever marketings from the farm are completed and in no event later than thirty days after the close of the tobacco auction markets for the area in which the farm is located. Failure to return the marketing card to the county office within the time specified shall constitute failure to give proof of disposition of tobacco marketed from the farm in the event that satisfactory proof of such disposition is not furnished otherwise.*

§ 726.325 *Additional reports by producers and identification of tobacco.* In addition to any other reports which may be required under the regulations in this subpart, the operator of each farm or any other person having an interest in the tobacco grown on the farm (even though the harvested acreage does not exceed the acreage allotment and even though no allotment was established for the farm) shall, upon written request by the Chief of the Marketing Quota Section, and within ten days after the deposit of such request in the United States mails addressed to such person at his last known address, furnish the Secretary of Agriculture, by sending the same to the Chief of the Marketing Quota Section, a written report on Form 41–Tob–76 showing, as to the farm at the time of filing said report (a) the number of acres of tobacco harvested, (b) the total production of tobacco, (c) the amount of tobacco on hand and its location, and (d) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed and the number of pounds marketed, the gross price, and the date of marketing.*

§ 726.326 *Rights of producers in marketing card.* Each producer having a share in the tobacco available for marketing from the farm shall be entitled to the use of the marketing card for marketing his proportionate share of the total amount of tobacco available for marketing from the farm.*

§ 726.327 *Successors in interest.* Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from the farm shall, to the extent of such succession, have the same rights as the producer to the use of marketing card for the farm.*

§ 726.328 *Person authorized to issue cards.* The county committee shall designate one person to sign marketing cards for farms in the county as issuing agent. No marketing card shall be signed by the issuing agent until all other entries required to be made thereon have been made, except that the operator's receipt therefor and the Operator's Agreement therein may be signed after the issuing agent has signed the card, but prior to its delivery to the farm operator. Only one person shall be designated as issuing agent but such person may, subject to the approval of the county committee, designate not more than three persons to sign his name in issuing marketing cards; provided that each such person shall place his initials immediately beneath the name of the issuing agent as written by him on the card.*

§ 726.329 *Invalid cards.* A marketing card shall be invalid under any of the following conditions:

(a) If it is not issued or delivered in the form and manner prescribed;

(b) If entries are not made thereon as required;

(c) If it is lost, destroyed, stolen, or becomes illegible;

(d) If any erasure has been made; or

(e) If any alteration has been made and not properly initialed.

In the event any marketing card becomes invalid (other than by loss, destruction, theft, omission, alteration, or incorrect entry which can be corrected by a field assistant) the farm operator (or the person having the card in his possession) shall return it to the county office at which it was issued.

If any marketing card is lost, destroyed, stolen, or altered, the person having knowledge of such loss, destruction, theft, or alteration shall notify the county office to that effect, and the county office shall immediately notify the field office of the Marketing Quota Section for the belt.

If any marketing card which was reported as lost, destroyed, stolen, or altered is later received by the county office, the county office shall immediately notify the field office of the Marketing Quota Section of the receipt of such card.

At the end of two weeks after receipt of notice of loss, destruction or theft of any marketing card the county office may issue a duplicate marketing card to replace the lost, destroyed, or stolen card in accordance with instructions issued pursuant to the regulations in this subpart.

In the event any marketing card was improperly issued, has been altered, or becomes illegible, upon the return of the card to the county office a new marketing card shall be issued immediately, or as soon thereafter as the necessary information is available.

If any entry is not made on a marketing card as required (either through omission or incorrect entry) and the proper entry is made by a field assistant then such card shall become valid. If the field assistant is unable to make the proper entry, he shall return the card to the county office where it shall be retained until such entry is made, or a new marketing card is issued, as provided above.*

§ 726.330 *Additional cards and disposition of used cards.* Upon the return to the county office of the marketing card after all the memoranda of sale have been issued therefrom and before the marketing of tobacco from the farm has been completed, a new marketing card of the same kind, bearing the same name, information and identification as the used card hall be issued for the farm. Any marketing card issued to replace another card shall have entered thereon the total sales as shown on the marketing card which is replaced.*

§ 726.331 *Report of probable misuse of marketing card.* Any information which causes any field assistant, a member of any local committee, or an employee of the county office to believe that any tobacco which actually was produced on another farm has been or is being marketed under the marketing card for a particular farm shall be reported immediately by such person to the field office of the Marketing Quota Section.*

§ 726.332 *No transfers.* There shall be no transfer of marketing quotas.*

MARKETING OF TOBACCO AND PENALTIES

§ 726.333 *Memorandum of sale to identify every marketing.* Each marketing of tobacco from a farm shall be identified by a memorandum of sale issued from the marketing card (Form 41–Tob–49 or 41–Tob–50) for the farm but if a memorandum of sale cannot be obtained within four weeks after the date of the marketing of any tobacco at a warehouse sale, such marketing of tobacco shall be subject to penalty and the amount of penalty shall be shown on the memorandum of sale cleared without marketing card (Form 41–Tob–68). The memorandum of sale shall be issued only by a field assistant, with the following exceptions:

(a) A warehouseman, or his authorized representative, who has been authorized on Form 41–Tob–75, may issue a within quota memorandum of sale to identify a warehouse sale, if a field assistant is not available at the warehouse when the card is presented by the farmer, but in such case the memorandum of sale shall be presented promptly by the warehouseman to the field assistant for verification with the warehouse records.

(b) A dealer, or his authorized representative, operating a regular receiving point for tobacco who keeps records showing the information specified in subsection 726.343 (e) and who has been authorized on Form 41–Tob–75, may issue within quota memoranda of sale covering tobacco purchased by such dealer and delivered directly to such receiving point by the producer.

(c) A representative of the county office may issue memoranda of sale covering sales of tobacco by the producer in

small lots, by mail order or directly to various individuals other than dealers.

The authorization to issue within quota memoranda of sale under paragraphs (a) or (b) above may be withdrawn from any warehouseman or dealer upon written notice by the Chief of the Marketing Quota Section.

Each excess memorandum of sale, after issuance by a field assistant, shall be checked by the warehouseman or dealer (or his representative) to determine whether the amount of penalty shown thereon to be due has been correctly computed, and the warehouseman or dealer shall be responsible for the correctness of such computations.

If the quantity of tobacco previously identified by memoranda of sale issued from any within quota marketing card is in excess of the number of pounds assigned to the card, the person issuing the memorandum shall require the farm operator to sign the "Operator's Certificate" on the back of the memorandum and if he is satisfied that such signature is the same as the signature of the farm operator on the marketing card, he may issue the memorandum. If any person other than the operator presents the marketing card, the memorandum of sale shall not be issued unless the "Authorization for Agent", on the back of such memorandum has been properly executed and signed by the operator, or by the person who presents the marketing card, in the event that such person signs his name as agent of the farm operator and places his address immediately beneath his signature. Any person authorized to issue a memorandum of sale under either of the above described circumstances who has reason to believe that the tobacco to be covered by the memorandum was not produced on the farm for which the marketing card containing the memorandum was issued, may or may not issue the memorandum as he considers advisable, but in either event he shall immediately make a written report of the circumstances in the case to the field office of the Marketing Quota Section for the belt in which the tobacco is sold.*

§ 726.334 *Bill of nonwarehouse sale.* Each marketing of tobacco, except a warehouse sale or a nonwarehouse sale of within quota tobacco to a dealer authorized to issue memoranda of sale under paragraph (b) of § 726.333 shall be identified by a Bill of Nonwarehouse Sale (Form 41–Tob–64) completelyexecuted by the buyer and the farm operator, except for the entry of the serial number of the memorandum of sale. The post card copy (Form 41–Tob–64a) shall be mailed by the farm operator not later than the day following the day on which executed. The original of each Bill of Nonwarehouse Sale shall be presented to a field assistant for issuance of a memorandum of sale (or a memorandum of sale cleared without marketing card) and for recording in the Dealer's Record Book in case of a purchase by a dealer other than a warehouseman.*

§ 726.335 *Marketings free of penalty.* Any tobacco marketed from a farm which is identified by a valid memorandum of sale from the marketing card issued for the farm shall be free of penalty to the extent shown by the memorandum of sale.*

§ 726.336 *Marketings subject to penalty and collection of penalties*—(a) *Farm tobacco.* With respect to tobacco marketed from farms having excess tobacco available for marketing, the penalty shall be paid upon that proportion of each lot of tobacco which the tobacco available for marketing in excess of the farm quota (at the time of issuance of the marketing card) is of the total amount of tobacco available for marketing from the farm. The memorandum of sale issued to identify such marketing of tobacco shall show that portion of such marketing which is subject to penalty, and any portion of such marketing of tobacco which is not shown by the memorandum as being subject to penalty shall be free of penalty.

(b) *Dealer's tobacco.* Any marketing of tobacco by a dealer which such dealer represents to be a resale, but all or any part of which, when added to prior resales by such dealer as shown on the Dealer's Record, is in excess of the total amount of purchases as shown on such Dealer's Record shall be a marketing of tobacco subject to penalty unless and until the dealer furnishes proof acceptable to the Secretary showing that such tobacco is not subject to penalty. Any marketing of tobacco by a dealer which such dealer represents to be a resale of tobacco previously purchased by him but which, because of the difference in the price at which such tobacco is resold as compared with the price at which he had purchased the tobacco, cannot reasonably be regarded as tobacco previously purchased by him shall be taken to be a marketing of tobacco subject to penalty.

(c) *Tobacco not identified by a valid memorandum.* Any marketing of tobacco which is not identified by a valid memorandum of sale shall be subject to penalty.

(d) *Liability in case of error on memorandum.* The person liable for the payment of the penalty upon any marketing of tobacco shall not be relieved of such liability because of any error which may occur on the memorandum of sale.*

§ 726.337 *Persons to pay penalty and deduction from purchase price*—(a) *Warehouse sale.* If the tobacco is marketed by the producer through a warehouseman the penalty shall be paid by the warehouseman, who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) *Sale other than warehouse sale.* If the tobacco is acquired from the producer in any manner other than through a warehouse sale, the penalty shall be paid by the person who acquired the tobacco, but such person may deduct an amount equivalent to the penalty from the price paid to the producer.

(c) *Agent.* If the tobacco is marketed by the producer through an agent who is not a warehouseman, the penalty shall be paid by the agent, who may deduct an amount equivalent to the penalty from the price paid to the producer.

(d) *Agent in case of false representation.* If any person markets tobacco representing that such tobacco is being marketed from one farm when in fact such tobacco is being marketed from another farm, then such person, as agent, shall pay any penalty due upon such marketing of tobacco.

(e) *Warehouseman and dealer or dealer's tobacco.* Any penalty due upon tobacco subject to penalty under paragraph (b) of § 726.336 shall be paid by the warehouseman, who may deduct an amount equivalent to the penalty from the price paid to the dealer, but the dealer shall not be relieved of responsibility for payment of such penalty.

(f) *Producer marketing outside United States.* If the tobacco is marketed by the producer directly to any person outside the United States, the penalty shall be paid by the producer.

(g) *Producer on behalf of buyer in case of mail order or direct sales in small lots.* If the tobacco is marketed in small lots by the producer by mail order sales or directly to various individuals other than dealers, the penalty may be paid by the producer of such tobacco on behalf of the various buyers. In such case the buyer of such tobacco shall be relieved of the penalty to the extent that it is paid by the producer.*

§ 726.338 *Amount of penalty.* The penalty shall be five cents per pound upon any marketing of tobacco which is not identified under the regulations in this subpart as being free from penalty.*

§ 726.339 *Penalty for false identification or failure to account for disposition of tobacco.* If any producer falsely identifies or fails to account for disposition of any tobacco, an amount of tobacco equal to the normal yield (determined under the 1941 Agricultural Conservation Program) of the number of acres harvested in 1941 in excess of the farm acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm and the penalty in respect thereof shall be paid and remitted by the producer.*

§ 726.340 *Payment of penalty.* Penalties upon the marketing of tobacco shall become due at the time of the marketing, and shall be paid by remitting the amount thereof to the Marketing Quota Section, Agricultural Adjustment Administration, Washington, D. C., not later than the end of the calendar week following the week in which the memorandum of sale was issued, or, in the event a memorandum is not issued, not later than four weeks after the date upon which the tobacco was sold. A draft, money order, or check, payable to the order of the Treasurer of the United

States may be used to pay any penalty, but any such draft, or check shall be received subject to payment at par.*

§ 726.341 *Application for return of penalty.* Any producer of tobacco who bore the burden of the payment of any penalty collected may file an application for return of any amount of such penalty which is in excess of that amount equal to five cents per pound upon the number of pounds marketed in excess of the farm marketing quota. Any application for the return of any penalty shall be filed on Form 41–Tob–74, "Application for Return of Penalty."

Any application for the return of penalty filed by any producer of tobacco on a farm on which the tobacco available for marketing is in excess of the farm marketing quota shall not be approved unless (1) the marketing of tobacco from the farm has been completed and (2) disposition of all unmarketed excess tobacco has been made under the supervision of the county committee (or its representative) and has been approved by the county committee.

Return of penalty collected upon marketings of tobacco from any farm on which the tobacco available for marketing is in excess of farm marketing quota shall be made only upon the basis of tobacco produced on the farm and, if the county committee has good cause to believe that any of the unmarketed excess tobacco as reported for the farm by the farm operator was not actually produced thereon, the application for such farm shall not be approved with respect to that tobacco which the committee has good cause to believe was not produced on the farm. The county committee shall approve an Application for Return of Penalty only with respect to that number of pounds of unmarketed excess tobacco which the committee determines is representative of the entire amount of tobacco available for marketing from the farm in the 1941–42 marketing year, taking into account the value of the unmarketed excess tobacco (which is disposed of) as appraised by the county committee (or its representative) and the value of tobacco marketed from the farm.

Any application for the return of penalty pursuant to this section shall be filed not later than sixty days before the end of the marketing year next succeeding that in which the penalty is collected.*

RECORDS AND REPORTS

§ 726.342 *Warehouseman's records and reports*—(a) *Record of marketings.* Each warehouseman shall keep such records as will enable him to furnish to the Secretary of Agriculture a report of the following information with respect to each sale or resale of tobacco made at his warehouse; the name of the seller (and, in the case of a sale for a producer, the name of the operator of the farm on which the tobacco was produced), the name of the purchaser, the date of sale, the number of pounds sold, the sale price, the amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer (or a dealer). All purchases and resales for the warehouse leaf account shall be so identified in the records and a separate account shall be maintained with respect to the amount of floor sweepings picked up and the disposition of such floor sweepings. The quantity of floor sweepings, including bundles, leaves and scrap, picked up by the warehouse after each sale shall be reported in the space provided on the Auction Warehouse Report (Form 41–Tob–66). Any warehouseman who grades tobacco for farmers shall maintain a separate account showing the approximate amount of grading house scrap obtained from the tobacco graded from each farm. In the case of resales for dealers the name of the dealer making each resale shall be shown on the warehouse record so that the individual lots of tobacco sold by the dealer can be identified.

(b) *Identification of sale on check register.* The serial number of the memorandum of sale issued to identify each marketing of tobacco from the farm or the number of the warehouse bill(s) covering each such marketing shall be recorded on the check register or check stub for the check written with respect to such sale of tobacco.

(c) *Memorandum of sale record and bill of nonwarehouse sale record.* A record in the form of a valid memorandum of sale (or a memorandum of sale cleared without marketing card) shall be obtained by every warehouseman to cover each marketing of tobacco from a farm through the warehouse, and if a warehouseman buys tobacco directly from a farmer (other than at a warehouse auction sale as defined in the regulations in this subpart) such warehouseman shall obtain a valid memorandum of sale to cover each such purchase of tobacco, together with a properly executed Bill of Nonwarehouse Sale (Form 41–Tob–64). Any warehouseman who obtains possession of any grading house scrap in the course of grading tobacco from any farm shall obtain a memorandum of sale to cover the amount of such scrap tobacco from such farm.

(d) *Suspended sale record.* Any warehouse bills for which memoranda of sale have not been issued at the end of the sale day shall be presented to a field assistant who shall stamp such bills as "suspended", write thereon the serial number of the suspended sale, and record the bills on the Register of Suspended Sales (Form 41–Tob–62): *Provided,* That if a field assistant is not available, the warehouseman may stamp such bills suspended and deliver them to a field assistant as soon as one becomes available.

(e) *Warehouse entries on dealers' records.* Each warehouseman shall enter on each Dealer's Record (Form 41–Tob–65) the total of purchases and resales made by such dealer during each sale day at the warehouse. If any tobacco resold by the dealer is tobacco bought by him from a crop produced prior to 1941 the entry on the Dealer's Record shall clearly show such fact.

(f) *Daily report of warehouse business and report of penalties.* Each warehouseman shall make reports on Form 41–Tob–66, Auction Warehouse Report, and on Form 41–Tob–67, Listing of Penalties, showing the information required on the respective reports. Form 41–Tob–66 shall be prepared for each sale day and all reports for the sale days occurring during any week shall be forwarded to the Marketing Quota Section at or before the end of the next following calendar week. Form 41–Tob–67 shall be prepared for each week and the report for each week shall be forwarded, together with the remittance of the penalty due, as shown thereon, to the Marketing Quota Section not later than the end of the next following calendar week.

(g) *Summary of warehouse accounts.* Each warehouseman shall assist field assistants to prepare summaries of the warehouse account by making available all records kept and reports made by the warehouse as required by the regulations in this subpart.

(h) *Additional records and reports.* In addition to the records and reports provided above, each warehouseman shall keep such additional records and make such additional reports to the Secretary of Agriculture as the Chief of the Marketing Quota Section may find necessary in order to enforce the regulations in this subpart.*

§ 726.343 *Dealer's records and reports.* Each dealer, except as provided in § 726.344 below, shall keep the records and make the reports as provided by this section.

(a) *Report of dealer's name, address and registration number.* Each dealer shall properly execute and the field assistant shall detach and forward to the Marketing Quota Section the page "Receipt for Dealer's Record" contained in Form 41–Tob–65, "Dealer's Record" which is issued to the dealer.

(b) *Record and report of purchases and resales.* Each dealer shall keep a record and make reports on Form 41–Tob–65, "Dealer's Record", showing all purchases and resales of tobacco made by the dealer and, in the event of resale of tobacco bought from a crop produced prior to 1941, the fact that such tobacco was bought by him and carried over from a crop produced prior to 1941.

(c) *Report of penalties.* Each dealer shall make a report on Form 41–Tob–67 showing the information with respect to all purchases subject to penalty made by him during each calendar week. The amount of penalty shown to be due by each such report shall be remitted with the report.

(d) *Memorandum of sale record and bill of nonwarehouse sale record.* For each lot of tobacco purchased from a farmer each dealer shall obtain a record in the form of a valid memorandum of sale issued by a representative of the

Marketing Quota Section or by an authorized representative of a receiving point in the case of tobacco sold and delivered to such receiving point. No memorandum of sale shall be issued except as provided in paragraph (b) of § 726.333 unless: (1) the farm operator or his authorized agent has signed the "Operator's Certificate" on the back of the memorandum and (2) unless a properly executed Bill of Nonwarehouse Sale (Form 41–Tob–64) is presented covering such sale.

(e) *Additional records.* Each dealer shall keep such records, in addition to the foregoing, as may be necessary to enable him to furnish the following information with respect to each lot of tobacco purchased or sold by him: The name of the seller (and in the case of a purchase from a producer, the name of the operator of the farm on which the tobacco was produced), the name of the purchaser, the date of the transaction, the number of pounds and the gross sale price; and in the event of resale of tobacco bought by him and carried over from a crop produced prior to 1941, the fact that such tobacco was so bought and carried over.

All reports shall be forwarded to the Marketing Quota Section not later than the end of the week following the calendar week covered by the reports.

§ 726.344 *Dealers exempt from regular records and reports.* Any dealer who does not purchase or otherwise acquire tobacco except at a warehouse sale and who does not resell, in the form in which tobacco ordinarily is sold by farmers, more than ten percent of the tobacco purchased by him, shall not be subject to the provisions of § 726.343 of the regulations in this subpart; but each such dealer shall make such reports to the Secretary of Agriculture as the Chief of the Marketing Quota Section may find necessary to enforce the regulations in this subpart.

§ 726.345 *Records and reports of redryers, etc.* Every person engaged in the business of redrying, prizing, or stemming tobacco for producers shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each lot of tobacco received by him: The date of receipt of the tobacco, the number of pounds received, the purpose for which the tobacco was received (and if received from a producer, the name and address of the farm operator, and the code and serial number of the farm on which the tobacco was grown), the amount of advance made by him on the tobacco, and the disposition of the tobacco. Each such person shall make such reports to the Secretary of Agriculture as the Chief of the Marketing Quota Section may find necessary to enforce the regulations in this subpart.*

§ 726.346 *Separate records and reports from persons engaged in more than one business.* Any person who is required to keep any record or make any report as a warehouseman, dealer, processor, or as a person engaged in the business of redrying, prizing, or stemming tobacco for producers, and who is engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged, to the same extent for each such business as if he were engaged in no other business, except that a warehouseman shall not be required to keep a record and make reports on Form 41–Tob–65, "Dealer's Record", if the transactions which would be recorded and reported on such forms are recorded on the records kept by the warehouse in its regular course of business and reported as required on Form 41–Tob–66.*

§ 726.347 *Failure to keep record or make report.* Any warehouseman, processor, or common carrier of tobacco, or person engaged in the business of purchasing tobacco from producers, or person engaged in the business of redrying, prizing or stemming tobacco for producers, who fails to make any report or keep any record as required under the regulations in this subpart, or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required under the regulations in this subpart within fifteen days after notice to him of such violation shall be subject to an additional fine of 100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation; *Provided*, That such fine shall not exceed $5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by posting the same at an established place of business operated by him, or both. Notice of any violation by a tobacco warehouseman or dealer shall be given by the Chief of the Marketing Quota Section.*

§ 726.348 *Examination of records and reports.* For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, any warehouseman, dealer, processor, common carrier or person engaged in the business of redrying, prizing or stemming tobacco for producers shall make available for examination, upon written request by the Chief of the Marketing Quota Section, such books, papers, records, accounts, correspondence, contracts, documents and memoranda as he has reason to believe are relevant and are within the control of such person.*

§ 726.349 *Length of time records and reports to be kept.* Records required to be kept and copies of the reports required to be made by any person under the regulations in this subpart for the 1941–42 marketing year shall be kept by him until September 30, 1943, and for such longer period of time as may be requested in writing by the Chief of the Marketing Quota Section.*

§ 726.350 *Information confidential.* All data reported to or acquired by the Secretary of Agriculture pursuant to the provisions of the regulations in this subpart shall be kept confidential by all officers and employees of the Department of Agriculture, and only such data so reported or acquired as the Secretary of Agriculture deems relevant shall be disclosed by them and then only in a suit or administrative hearing under Title III of the Act.*

By virtue of the authority vested in the Secretary of Agriculture by Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938), as amended, he does hereby make, prescribe, publish and give public notice of the foregoing regulations pertaining to fire-cured tobacco marketing quotas for the 1941–42 marketing year to be in force and effect for said marketing year until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said Act.

Done at Washington, D. C., this 21st day of October 1941. Witness my hand and the seal of the Department of Agriculture.

[SEAL] PAUL H. APPLEBY,
Under Secretary of Agriculture.

[F. R. Doc. 41–7925; Filed, October 21, 1941; 11:30 a. m.]

[41–Tob–60]

PART 726—FIRE-CURED AND DARK AIR-CURED TOBACCO

SUBPART E—1942

Marketing Quota Regulations

GENERAL

GENERAL

§ 726.368 *Definitions.* As used in the regulations in this part and in all instructions, forms and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) "Act" means the Agricultural Adjustment Act of 1938 and any amendments thereto.

(b) "Committee" means a committee within a county or community established under the Soil Conservation and Domestic Allotment Act. "County Committee," "Local Committee," or "Community Committee" shall have corresponding meanings in the connection in which they are used.

(c) "County office" means the office of the County Agricultural Conservation Association, or the county or local committees or employees of such association, according to the sense in which such term is used.

(d) "Dealer" means a person who engages, to whatever extent, in the business of acquiring tobacco from producers, without regard to whether such person is registered as a dealer with the Bureau of Internal Revenue.

(e) "Farm" means any tract or tracts of land which are considered as a farm under the provisions of the 1941 Agricultural Conservation Program.

(f) "Field assistant" means any field assistant, junior field officer, or a field officer, or any other employee of the Marketing Quota Section.

(g) "Floor sweepings" means all tobacco which is dropped on the warehouse floor in the course of the warehouse operations and is picked up by the warehouseman. Any tobacco accumulated in the course of the grading of tobacco for farmers shall not be included as floor sweepings.

(h) "Market" means the first disposition in raw or processed form of tobacco by voluntary or involuntary sale, barter or exchange, or by gift inter vivos. "Marketing" and "Marketed" shall have corresponding meanings to the term "market".

(i) "Marketing quota section" means the Marketing Quota Section, East Central Division, Agricultural Adjustment Administration, United States Department of Agriculture, Washington, D. C.

(j) "Nonwarehouse sale" means any marketing other than a warehouse sale.

(k) "Operator" means the person who is in charge of the supervision and the conduct of the farming operations on the entire farm.

(l) "Person" means an individual, partnership, association, corporation, estate, trust, or any agency of a State or of the Federal Government. The term "person" shall include two or more persons having a joint or common interest.

(m) "Pound" means that amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually marketed by producers, would equal one pound standard weight. The weight of redried or prized tobacco shall be increased so as to correspond with the original weight of such tobacco prior to redrying.

(n) "Producer" means a person who, as owner, landlord, tenant, share-cropper, or laborer is entitled to share in the tobacco available for marketing from the farm, or in the proceeds of the marketing, under the provisions of his agreement relating to the production of tobacco.

(o) "Resale" means the disposition by sale, barter, or exchange of tobacco which has been marketed previously.

(p) "Sale day" means the period at the end of which the warehouseman bills to buyers the tobacco so purchased during such period.

(q) "Suspended sale" means any marketing of tobacco at a warehouse sale for which a memorandum of sale is not issued by the end of the particular sale day on which such marketing occurred.

(r) "Tobacco" means dark air-cured tobacco classified in Service and Regulatory Announcement No. 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture at types 35 and 36 and collectively known as dark air-cured tobacco.

(s) "Tobacco available for marketing" means all tobacco produced on a farm in the calendar year 1941 (and any tobacco produced on the farm prior to the calendar year 1941 and carried over to the 1941–42 marketing year) which is not disposed of through use on the farm or by storage prior to the issuance of a marketing card for the farm.

(t) "Warehouseman" means a person engaged in the business of holding sales of tobacco at public auction at a warehouse during the tobacco marketing season.

(u) "Warehouse sale" means a marketing by sale at auction through a warehouse in the regular course of business.*

* §§ 726.368 to 726.400, inclusive, issued under the authority contained in 52 Stat. 38; 7 U.S.C. 1301, et seq., as amended.

§ 726.369 *Instructions and forms.* The Administrator of the Agricultural Adjustment Administration shall cause to be prepared and issued such instructions and such forms as may be deemed necessary or expedient for carrying out the regulations in this subpart.*

§ 726.370 *Tobacco subject to marketing quotas.* Any tobacco marketed during the period October 1, 1941, to September 30, 1942, inclusive, and any tobacco produced in the calendar year 1941 and marketed prior to October 1, 1941, shall be subject to the marketing quotas for the 1941–42 marketing year.*

FARM MARKETING QUOTAS [1]

§ 726.371 *Amount of farm marketing quota.* The marketing quota for a farm shall be the actual production of tobacco on the farm acreage allotment, as established for the farm in accordance with the "Procedure for Determination of Fire-cured and Dark Air-cured Tobacco Acreage Allotments for 1941" (Form 41–Tob–33 and Supplement 1). The actual production of the farm acreage allotment shall be the average yield per acre of the entire acreage of tobacco harvested on the farm in 1941 times the farm acreage allotment. The excess tobacco on any farm shall be that quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm in 1941 times the number of acres harvested in excess of the farm acreage allotment.*

§ 726.372 *Issuance of marketing card.* A marketing card shall be issued for every farm having tobacco available for marketing. The card shall be issued after information required for its preparation (including measurements of the harvested acreage of tobacco and an estimate of the actual production of tobacco) has been furnished to or obtained by the county office. If the farm operator refuses to furnish or prevents the county office from obtaining such information, the card shall show that all of the tobacco available for marketing from the farm is subject to penalty.

(a) *Within quota marketing card (Form 41–Tob–51).* A "Within Quota Marketing Card" authorizing the marketing without penalty of the actual production of tobacco on the farm acreage allotment in 1941 shall be issued for a farm (other than a farm having tobacco carried over from a crop produced prior to 1941) under the following conditions:

(1) If the harvested acreage of tobacco in 1941 is not in excess of the farm acreage allotment (except as provided in paragraph (b) (2) and (3) of

[1] Instructions for determining marketing quotas, issuing marketing cards, and with respect to the rights of producers in the quota for farms having tobacco which was produced thereon in a calendar year prior to 1941 and carried over to the 1941–42 marketing year will be issued in Supplement 1 to these regulations.

this section) and the operator of the farm does not operate any other farm on which the harvested acreage exceeds the acreage allotment.

(2) If the farm is operated by a publicly owned experiment station and the tobacco is produced for experimental purposes only.

(b) *Excess marketing card (Form 41–Tob–52).* An "Excess Marketing Card" showing the extent to which marketings of tobacco from the farm are subject to penalty shall be issued for a farm under the following conditions:

(1) If the harvested acreage of tobacco in 1941 is in excess of the farm acreage allotment or the operator of the farm also operates any other farm on which the harvested acreage of tobacco in 1941 exceeds the farm acreage allotment.

(2) If the acreage of tobacco planted on the farm in 1941 is in excess of the farm acreage allotment and the operator does not dispose of the acreage in excess of the allotment prior to harvesting such tobacco and within 15 days after receiving notice of such excess acreage from the county office.

(3) If a within quota marketing card could be issued for the farm but the county committee determines that a zero percent excess marketing card is necessary to protect the interest of the government and to insure the proper identification of and accounting for the disposition of tobacco produced on the farm and the proper use of the marketing card issued for the farm.

(4) If there is tobacco available for marketing from the farm but no tobacco acreage allotment was established.

(5) If information required for preparation of the marketing card is not furnished or the county office is prevented from obtaining the necessary information.

(c) *Extent to which marketings from a farm are subject to penalty.* The extent to which marketings of tobacco from any farm are subject to penalty (except as provided in Supplement 1 to the regulations in this subpart) shall be that percentage of the tobacco available for marketing from the farm which the acreage of tobacco harvested in excess of the farm acreage allotment for the farm is of the acreage of tobacco harvested from the farm (or if tobacco is disposed of without marketing after harvesting, that percentage which the amount of tobacco available for marketing from the farm in excess of the farm marketing quota is of the total amount of tobacco available for marketing from the farm). Each marketing card showing a percentage excess of zero also shall show a maximum number of pounds of tobacco which may be marketed thereunder which shall be the quantity of tobacco estimated by the county committee to be available for marketing from the crop produced on the farm. For any excess marketing card which shows a percentage excess of more than zero the county committee, if it has reason to believe it to be necessary in order to prevent marketing thereunder of tobacco produced on another farm, also shall have shown on the card a maximum number of pounds which may be marketed thereunder, such number of pounds to be determined in the same manner as for a card showing zero percent excess. The maximum number of pounds shown on any excess marketing card shall be increased by the county committee if the committee determines that the quantity of tobacco available for marketing from the crop produced on the farm is greater than the number of pounds previously estimated by the comittee to be available for marketing.

(d) *Number of marketing cards and entries and signatures thereon.* One or more marketing cards may be issued for any farm as approved by the county office. All entries on each marketing card shall be made in accordance with instructions for isuing marketing cards. The Receipt and the "Operator's Agreement" on each marketing card shall be signed by the farm operator or on his behalf by his authorized representative and by the person who delivers the card to the operator.*

§ 726.373 *Disposition of excess tobacco.* The amount of excess tobacco available for marketing for any farm shall be determined on the basis of the tobacco available for marketing from the farm at the time the marketing card is issued for the farm. Disposition of excess tobacco, other than by marketing shall be made only by the farm operator (or his representative) but the county committee (or a representative of the committee) shall approve the disposition. The county committee shall cause a record to be made showing the amount of tobacco (in acres or pounds) disposed of and may require the farm operator (or his representative) to sign a statement that such record is accurate before giving approval to the disposition. If all tobacco has been harvested prior to the disposition of the excess tobacco, the amount of excess tobacco available for marketing can be reduced only to the extent that the tobacco so disposed of is representative of the tobacco available for marketing from the farm.*

§ 726.374 *Report on marketing card.* The operator of each farm on which tobacco is produced in 1941 shall return to the county office each marketing card issued for the farm whenever marketings from the farm are completed and in no event later than thirty days after the close of the tobacco auction markets for the area in which the farm is located. Failure to return the marketing card to the county office within the time specified shall constitute failure to give proof of disposition of tobacco marketed from the farm in the event that satisfactory proof of such disposition is not furnished otherwise.*

§ 726.375 *Additional reports by producers and identification of tobacco.* In addition to any other reports which may be required under the regulations in this subpart, the operator of each farm or any other person having an interest in the tobacco grown on the farm (even though the harvested acreage does not exceed the acreage allotment and even though no allotment was established for the farm) shall, upon written request by the Chief of the Marketing Quota Section, and within ten days after the deposit of such request in the United States mails addressed to such person at his last known address, furnish the Secretary of Agriculture, by sending the same to the Chief of the Marketing Quota Section, a written report on Form 41–Tob–76 showing, as to the farm at the time of filing said report (a) the number of acres of tobacco harvested, (b) the total production of tobacco, (c) the amount of tobacco on hand and its location, and (d) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed, and the number of pounds marketed, the gross price, and the date of marketing.*

§ 726.376 *Rights of producers in marketing card.* Each producer having a share in the tobacco available for marketing from the farm shall be entitled to the use of the marketing card for marketing his proportionate share of the total amount of tobacco available for marketing from the farm.*

§ 726.377 *Successors in interest.* Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from the farm shall, to the extent of such succession, have the same rights as the producer to the use of marketing card for the farm.*

§ 726.378 *Person authorized to issue cards.* The county committee shall designate one person to sign marketing cards for farms in the county as issuing agent. No marketing card shall be signed by the issuing agent until all other entries required to be made thereon have been made, except that the operator's receipt therefor and the Operator's Agreement therein may be signed after the issuing agent has signed the card, but prior to its delivery to the farm operator. Only one person shall be designated as issuing agent but such person may, subject to the approval of the county committee, designate not more than three persons to sign his name in issuing marketing cards: *Provided,* That each such person shall place his initials immediately beneath the name of the issuing agent as written by him on the card.*

§ 726.379 *Invalid cards.* A marketing card shall be invalid under any of the following conditions:

(a) If it is not issued or delivered in the form and manner prescribed;

(b) If entries are not made thereon as required;

(c) If it is lost, destroyed, stolen or becomes illegible;

(d) If any erasure has been made; or
(e) If any alteration has been made and not properly initialed.

In the event any marketing card becomes invalid (other than by loss, destruction, theft, omission, alteration, or incorrect entry which can be corrected by a field assistant) the farm operator (or the person having the card in his possession) shall return it to the county office at which it was issued.

If any marketing card is lost, destroyed, stolen, or altered, the person having knowledge of such loss, destruction, theft or alteration shall notify the county office to that effect, and the county office shall immediately notify the field office of the Marketing Quota Section for the belt.

If any marketing card which was reported as lost, destroyed, stolen, or altered is later received by the county office, the county office shall immediately notify the field office of the Marketing Quota Section of the receipt of such card.

At the end of two weeks after receipt of notice of loss, destruction or theft of any marketing card the county office may issue a duplicate marketing card to replace the lost, destroyed, or stolen card in accordance with instructions issued pursuant to the regulations in this subpart.

In the event any marketing card was improperly issued, has been altered, or becomes illegible, upon the return of the card to the county office a new marketing card shall be issued immediately, or as soon thereafter as the necessary information is available.

If any entry is not made on a marketing card as required (either through omission or incorrect entry) and the proper entry is made by a field assistant, then such card shall become valid. If the field assistant is unable to make the proper entry, he shall return the card to the county office where it shall be retained until such entry is made, or a new marketing card is issued, as provided above.*

§ 726.380 *Additional cards and disposition of used cards.* Upon the return to the county office of the marketing card after all the memoranda of sale have been issued therefrom and before the marketing of tobacco from the farm has been completed, a new marketing card of the same kind, bearing the same name, information and identification as the used card shall be issued for the farm. Any marketing card issued to replace another card shall have entered thereon the total sales as shown on the marketing card which is replaced.*

§ 726.381 *Report of probable misuse of marketing card.* Any information which causes any field assistant, a member of any local committee, or an employee of the county office to believe that any tobacco which actually was produced on another farm has been or is being marketed under the marketing card for a particular farm shall be reported immediately by such person to the field office of the Marketing Quota Section.*

§ 726.382 *No transfers.* There shall be no transfer of marketing quotas.*

MARKETING OF TOBACCO AND PENALTIES

§ 726.383 *Memorandum of sale to identify every marketing.* Each marketing of tobacco from a farm shall be identified by a memorandum of sale issued from the marketing card (Form 41–Tob–51 or 41–Tob–52) for the farm, but if a memorandum of sale cannot be obtained within four weeks after the date of the marketing of any tobacco at a warehouse sale, such marketing of tobacco shall be subject to penalty and the amount of penalty shall be shown on the memorandum of sale cleared without marketing card (Form 41–Tob–68). The memorandum of sale shall be issued only by a field assistant, with the following exceptions:

(a) A warehouseman, or his authorized representative, who has been authorized on Form 41–Tob–75, may issue a within quota memorandum of sale to identify a warehouse sale, if a field assistant is not available at the warehouse when the card is presented by the farmer, but in such case the memorandum of sale shall be presented promptly by the warehouseman to the field assistant for verification with the warehouse records.

(b) A representative of the county office may issue memoranda of sale covering sales of tobacco by the producer in small lots by mail order or directly to various individuals other than dealers.

The authorization to issue within quota memoranda of sale under paragraph (a) above may be withdrawn from any warehouseman or dealer upon written notice by the Chief of the Marketing Quota Section.

Each excess memorandum of sale, after issuance by a field assistant, shall be checked by the warehouseman or dealer (or his representative) to determine whether the amount of penalty shown thereon to be due has been correctly computed, and the warehouseman or dealer shall be responsible for the correctness of such computations.

If the quantity of tobacco previously identified by memoranda of sale issued from any within quota marketing card is in excess of the number of pounds assigned to the card, the person issuing the memorandum shall require the farm operator to sign the "Operator's Certificate" on the back of the memorandum and if he is satisfied that such signature is the same as the signature of the farm operator on the marketing card, he may issue the memorandum. If any person other than the operator presents the marketing card, the memorandum of sale shall not be issued unless the "Authorization for Agent", on the back of such memorandum has been properly executed and signed by the operator, or by the person were presents the marketing card, in the event that such person signs his name as agent of the farm operator and places his address immediately beneath his signature. Any person authorized to issue a memorandum of sale under either of the above-described circumstances who has reason to believe that the tobacco to be covered by the memorandum was not produced on the farm for which the marketing card containing the memorandum was issued, may or may not issue the memorandum as he considers advisable, but in either event he shall immediately make a written report of the circumstances in the case to the field office of the Marketing Quota Section for the belt in which the tobacco is sold.*

§ 726.384 *Bill of nonwarehouse sale.* Each marketing of tobacco, except a warehouse sale, shall be identified by a Bill of Nonwarehouse Sale (Form 41–Tob–64) completely executed by the buyer and the farm operator, except for the entry of the serial number of the memorandum of sale. The post card copy (Form 41–Tob–64a) shall be mailed by the farm operator not later than the day following the day on which executed. The original of each Bill of Nonwarehouse Sale shall be presented to a field assistant for issuance of a memorandum of sale (or a memorandum of sale cleared without marketing card) and for recording in the Dealer's Record Book in case of a purchase by a dealer other than a warehouseman.

§ 726.385 *Marketings free of penalty.* Any tobacco marketed from a farm which is identified by a valid memorandum of sale from the marketing card issued for the farm shall be free of penalty to the extent shown by the memorandum of sale.*

§ 726.386 *Marketings subject to penalty and collection of penalties*—(a) *Farm tobacco.* With respect to tobacco marketed from farms having excess tobacco available for marketing, the penalty shall be paid upon that proportion of each lot of tobacco which the tobacco available for marketing in excess of the farm quota (at the time of issuance of the marketing card) is of the total amount of tobacco available for marketing from the farm. The memorandum of sale issued to identify such marketing of tobacco shall show that portion of such marketing which is subject to penalty, and any portion of such marketing of tobacco which is not shown by the memorandum as being subject to penalty shall be free of penalty.

(b) *Dealer's tobacco.* Any marketing of tobacco by a dealer which such dealer represents to be a resale, but all or any part of which, when added to prior resales by such dealer as shown on the Dealer's Record, is in excess of the total amount of purchases as shown on such Dealer's Record shall be a marketing of tobacco subject to penalty unless and until the dealer furnished proof acceptable to the Secretary showing that such tobacco is not subject to penalty. Any

marketing of tobacco by a dealer which such dealer represents to be a resale of tobacco previously purchased by him but which, because of the difference in the price at which such tobacco is resold as compared with the price at which he had purchased the tobacco, cannot reasonably be regarded as tobacco previously purchased by him shall be taken to be a marketing of tobacco subject to penalty.

(c) *Tobacco not identified by a valid memorandum.* Any marketing of tobacco which is not identified by a valid memorandum of sale shall be subject to penalty.

(d) *Liability in case of error on memorandum.* The person liable for the payment of the penalty upon any marketing of tobacco shall not be relieved of such liability because of any error which may occur on the memorandum of sale.*

§ 726.387 *Persons to pay penalty and deduction from purchase price*—(a) *Warehouse sale.* If the tobacco is marketed by the producer through a warehouseman the penalty shall be paid by the warehouseman, who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) *Sale other than warehouse sale.* If the tobacco is acquired from the producer in any manner other than through a warehouse sale, the penalty shall be paid by the person who acquired the tobacco, but such person may deduct an amount equivalent to the penalty from the price paid to the producer.

(c) *Agent.* If the tobacco is marketed by the producer through an agent who is not a warehouseman, the penalty shall be paid by the agent, who may deduct an amount equivalent to the penalty from the price paid to the producer.

(d) *Agent in case of false representation.* If any person markets tobacco representing that such tobacco is being marketed from one farm when in fact such tobacco is being marketed from another farm, then such person, as agent, shall pay any penalty due upon such marketing of tobacco.

(e) *Warehouseman and dealer or dealer's tobacco.* Any penalty due upon tobacco subject to penalty under paragraph (b) of § 726.386 shall be paid by the warehouseman, who may deduct an amount equivalent to the penalty from the price paid to the dealer, but the dealer shall not be relieved of responsibility for payment of such penalty.

(f) *Producer marketing outside United States.* If the tobacco is marketed by the producer directly to any person outside the United States, the penalty shall be paid by the producer.

(g) *Producer on behalf of buyer in case of mail order or direct sales in small lots.* If the tobacco is marketed in small lots by the producer by mail order sales or directly to various individuals other than dealers, the penalty may be paid by the producer of such tobacco on behalf of the various buyers. In such case the buyer of such tobacco shall be relieved of the penalty to the extent that it is paid by the producer.*

§ 726.388 *Amount of penalty.* The penalty shall be five cents per pound upon any marketing of tobacco which is not identified under the regulations in this subpart as being free from penalty.*

§ 726.389 *Penalty for false identification or failure to account for disposition of tobacco.* If any producer falsely identifies or fails to account for disposition of any tobacco, an amount of tobacco equal to the normal yield (determined under the 1941 Agricultural Conservation Program) of the number of acres harvested in 1941 in excess of the farm acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm and the penalty in respect thereof shall be paid and remitted by the producer.*

§ 726.390 *Payment of penalty.* Penalties upon the marketing of tobacco shall become due at the time of the marketing, and shall be paid by remitting the amount thereof to the Marketing Quota Section, Agricultural Adjustment Administration, Washington, D. C., not later than the end of the calendar week following the week in which the memorandum of sale was issued, or, in the event a memorandum is not issued, not later than four weeks after the date upon which the tobacco was sold. A draft, money order, or check, payable to the order of the Treasurer of the United States may be used to pay any penalty, but any such draft, or check shall be received subject to payment at par.*

§ 726.391 *Application for return of penalty.* Any producer of tobacco who bore the burden of the payment of any penalty collected may file an application for return of any amount of such penalty which is in excess of that amount equal to five cents per pound upon the number of pounds marketed in excess of the farm marketing quota. Any application for the return of any penalty shall be filed on Form 41–Tob–74, "Application for Return of Penalty".

An application for the return of penalty filed by any producer of tobacco on a farm on which the tobacco available for marketing is in excess of the farm marketing quota shall not be approved unless (1) the marketing of tobacco from the farm has been completed and (2) disposition of all unmarketed excess tobacco has been made under the supervision of the county committee (or its representative) and has been approved by the county committee.

Return of penalty collected upon marketings of tobacco from any farm on which the tobacco available for marketing is in excess of farm marketing quota shall be made only upon the basis of tobacco produced on the farm and, if the county committee has good cause to believe that any of the unmarketed excess tobacco as reported for the farm by the farm operator was not actually produced thereon, the application for such farm shall not be approved with respect to that tobacco which the committee has good cause to believe was not produced on the farm. The county committee shall approve an Application for Return of Penalty only with respect to that number of pounds of unmarketed excess tobacco which the committee determines is representative of the entire amount of tobacco available for marketing from the farm in 1941–42 marketing year, taking into account the value of the unmarketed excess tobacco (which is disposed of) as appraised by the county committee (or its representative) and the value of tobacco marketed from the farm.

Any application for the return of penalty pursuant to this section shall be filed not later than sixty days before the end of the marketing year next succeeding that in which the penalty is collected.*

RECORDS AND REPORTS

§ 726.392 *Warehouseman's records and reports*—(a) *Record of marketings.* Each warehouseman shall keep such records as will enable him to furnish to the Secretary of Agriculture a report of the following information with respect to each sale or resale of tobacco made at his warehouse; the name of the seller (and, in the case of a sale for a producer, the name of the operator of the farm on which the tobacco was produced), the name of the purchaser, the date of sale, the number of pounds sold, the sale price, the amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer (or a dealer). All purchases and resales for the warehouse leaf account shall be so identified in the records and a separate account shall be maintained with respect to the amount of floor sweepings picked up and the disposition of such floor sweepings. The quantity of floor sweepings, including bundles, leaves and scrap, picked up by the warehouse after each sale shall be reported in the space provided on the Auction Warehouse Report (Form 41–Tob–66). Any warehouseman who grades tobacco for farmers shall maintain a separate account showing the approximate amount of grading house scrap obtained from the tobacco graded from each farm. In the case of resales for dealers the name of the dealer making each resale shall be shown on the warehouse records so that the individual lots of tobacco sold by the dealer can be identified.

(b) *Identification of sale on check register.* The serial number of the memorandum of sale issued to identify each marketing of tobacco from the farm, or the number of the warehouse bill(s) covering each such marketing shall be recorded on the check register or check stub for the check written with respect to such sale of tobacco.

(c) *Memorandum of sale record and bill of nonwarehouse sale record.* A record in the form of a valid memorandum

of sale (or a memorandum of sale cleared without marketing card) shall be obtained by every warehouseman to cover each marketing of tobacco from a farm through the warehouse, and if a warehouseman buys tobacco directly from a farmer (other than at a warehouse auction sale as defined in the regulations in this subpart) such warehouseman shall obtain a valid memorandum of sale to cover each such purchase of tobacco, together with a properly executed Bill of Nonwarehouse Sale (Form 41–Tob–64). Any warehouseman who obtains possession of any grading house scrap in the course of grading tobacco from any farm shall obtain a memorandum of sale to cover the amount of such scrap tobacco from such farm.

(d) *Suspended sale record.* Any warehouse bills for which memoranda of sale have not been issued at the end of the sale day shall be presented to a field assistant who shall stamp such bills as "suspended," write thereon the serial number of the suspended sale, and record the bills on the Register of Suspended Sales (Forms 41–Tob–62); provided that if a field assistant is not available, the warehouseman may stamp such bills suspended and deliver them to a field assistant as soon as one becomes available.

(e) *Warehouse entries on dealers' records.* Each warehouseman shall enter on each Dealer's Record (Form 41–Tob–65) the total of purchases and resales made by such dealer during each sale day at the warehouse. If any tobacco resold by the dealer is tobacco bought by him from a crop produced prior to 1941 the entry on the Dealer's Record shall clearly show such fact.

(f) *Daily report of warehouse business and report of penalties.* Each warehouseman shall make reports on Form 41–Tob–66, Auction Warehouse Report, and on Form 41–Tob–67, Listing of Penalties, showing the information required on the respective reports. Form 41–Tob–66 shall be prepared for each sale day and all reports for the sale days occurring during any week shall be forwarded to the Marketing Quota Section at or before the end of the next following calendar week. Form 41–Tob–67 shall be prepared for each week and the report for each week shall be forwarded, together with the remittance of the penalty due, as shown thereon, to the Marketing Quota Section not later than the end of the next following calendar week.

(g) *Summary of warehouse accounts.* Each warehouseman shall assist field assistants to prepare summaries of the warehouse account by making available all records kept and reports made by the warehouse as required by the regulations in this subpart.

(h) *Additional records and reports.* In addition to the records and reports provided above, each warehouseman shall keep such additional records and make such additional reports to the Secretary of Agriculture as the Chief of the Marketing Quota Section may find necessary in order to enforce the regulations in this subpart.*

§ 726.393 *Dealer's records and reports.* Each dealer, except as provided in § 726.394, shall keep the records and make the reports as provided by this section.

(a) *Report of dealer's name, address and registration number.* Each dealer shall properly execute and the field assistant shall detach and forward to the Marketing Quota Section the page "Receipt for Dealer's Record" contained in Form 41–Tob–65, "Dealer's Record" which is issued to the dealer.

(b) *Record and report of purchases and resales.* Each dealer shall keep a record and make reports on Form 41–Tob–65, "Dealer's Record", showing all purchases and resales of tobacco made by the dealer and, in the event of resale of tobacco bought from a crop produced prior to 1941, the fact that such tobacco was bought by him and carried over from a crop produced prior to 1941.

(c) *Report of penalties.* Each dealer shall make a report on Form 41–Tob–67 showing the information with respect to all purchases subject to penalty made by him during each calendar week. The amount of penalty shown to be due by each such report shall be remitted with the report.

(d) *Memorandum of sale record and bill of nonwarehouse sale record.* For each lot of tobacco purchased from a farmer each dealer shall obtain a record in the form of a valid memorandum of sale issued by a representative of the Marketing Quota Section. No memorandum of sale shall be issued unless: (1) the farm operator or his authorized agent has signed the "Operator's Certificate" on the back of the memorandum and (2) unless a properly executed Bill of Nonwarehouse Sale (Form 41–Tob–64) is presented covering such sale.

(e) *Additional records.* Each dealer shall keep such records, in addition to the foregoing, as may be necessary to enable him to furnish the following information with respect to each lot of tobacco purchased or sold by him: The name of the seller (and in the case of a purchase from a producer, the name of the operator of the farm on which the tobacco was produced), the name of the purchaser, the date of the transaction, the number of pounds and the gross sale price; and in the event of resale of tobacco bought by him and carried over from a crop produced prior to 1941, the fact that such tobacco was so bought and carried over.

All reports shall be forwarded to the Marketing Quota Section not later than the end of the week following the calendar week covered by the reports.*

§ 726.394 *Dealers exempt from regular records and reports.* Any dealer who does not purchase or otherwise acquire tobacco except at a warehouse sale and who does not resell, in the form in which tobacco ordinarily is sold by farmers, more than ten percent of the tobacco purchased by him, shall not be subject to the provisions of § 726.393 of the regulations in this subpart; but each such dealer shall make such reports to the Secretary of Agriculture as the Chief of the Marketing Quota Section may find necessary to enforce the regulations in this subpart.*

§ 726.395 *Records and reports of redryers, etc.* Every person engaged in the business of redrying, prizing, or stemming tobacco for producers shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each lot of tobacco received by him: The date of receipt of the tobacco, the number of pounds received, the purpose for which the tobacco was received (and if received from a producer, the name and address of the farm operator, and the code and serial number of the farm on which the tobacco was grown), the amount of advance made by him on the tobacco, and the disposition of the tobacco. Each such person shall make such reports to the Secretary of Agriculture as the Chief of the Marketing Quota Section may find necessary to enforce the regulations in this subpart.*

§ 726.396 *Separate records and reports from persons engaged in more than one business.* Any person who is required to keep any record or make any report as a warehouseman, dealer, processor, or as a person engaged in the business of redrying, prizing, or stemming tobacco for producers, and who is engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged, to the same extent for each such business as if he were engaged in no other business, except that a warehouseman shall not be required to keep a record and make reports on Form 41–Tob–65, "Dealer's Record", if the transactions which would be recorded and reported on such forms are recorded on the records kept by the warehouse in its regular course of business and reported as required on Form 41–Tob–66.*

§ 726.397 *Failure to keep record or make report.* Any warehouseman, processor, or common carrier of tobacco, or person engaged in the business of purchasing tobacco from producers, or person engaged in the business of redrying, prizing or stemming tobacco for producers, who fails to make any report or keep any record as required under the regulations in this subpart, or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required under the regulations in this subpart within fifteen days after notice

to him of such violation shall be subject to an additional fine of $100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided,* That such fine shall not exceed $5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the the same to him by registered mail or by posting the same at an established place of business operated by him, or both. Notice of any violation by a tobacco warehouseman or dealer shall be given by the Chief of the Marketing Quota Section.*

§ 726.398 *Examination of records and reports.* For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, any warehouseman, dealer, processor, common carrier or person engaged in the business of redrying, prizing or stemming tobacco for producers shall make available for examination, upon written request by the Chief of the Marketing Quota Section, such books, papers, records, accounts, correspondence, contracts, documents and memoranda as he has reason to believe are relevant and are within the control of such person.*

§ 726.399 *Length of time records and reports to be kept.* Records required to be kept and copies of the reports required to be made by any person under the regulations in this subpart for the 1941–42 marketing year shall be kept by him until September 20, 1943, and for such longer period of time as may be requested in writing by the Chief of the Marketing Quota Section.*

§ 726.400 *Information confidential.* All data reported to or acquired by the Secretary of Agriculture pursuant to the provisions of the regulations in this subpart shall be kept confidential by all officers and employees of the Department of Agriculture, and only such data so reported or acquired as the Secretary of Agriculture deems relevant shall be disclosed by them and then only in a suit or administrative hearing under Title III of the Act.*

By virtue of the authority vested in the Secretary of Agriculture by Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938), as amended, he does hereby make, prescribe, publish and give public notice of the foregoing regulations pertaining to Burley tobacco marketing quotas for the 1941–42 marketing year to be in force and effect for said marketing year until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said Act.

Done at Washington, D. C., this 21st day of October 1941. Witness my hand and the seal of the Department of Agriculture.

[SEAL] PAUL H. APPLEBY,
Under Secretary of Agriculture.

[F. R. Doc. 41–7925; Filed, October 21, 1941; 11:31 a. m.]

TITLE 16—COMMERCIAL PRACTICES

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 4177]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

IN THE MATTER OF BILT-RITE BOX CORPORATION, ET AL.

§ 3.6 (a) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Producer status of dealer or seller—Manufacturer.* In connection with offer, etc., in commerce, of paper boxes or other shipping containers, representing in any manner that respondents, or any one or more of them, own and operate or control a plant or factory wherein paper boxes or other shipping containers are manufactured, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Bilt-Rite Box Corporation, et al., Docket 4177, October 15, 1941]

In the Matter of Bilt-Rite Box Corporation, a corporation; Jacob Glekel and Jacob Press, individually and as officers of the Bilt-Rite Box Corporation

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of October, A. D. 1941.

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents, the testimony and other evidence taken before Lewis C. Russell, a duly appointed trial examiner of the Commission designated by it to serve in this proceeding, the report of the trial examiner thereon and the exceptions to said report, and briefs filed in support of and in opposition to, the complaint, and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That respondent Bilt-Rite Box Corporation, a corporation, its officers, directors, agents, representatives and employees, and the respondents, Jacob Glekel and Jacob Press, individually and as officers of the Bilt-Rite Box Corporation, directly or through any corporate or other device in connection with the offering for sale, sale and distribution of paper boxes or other shipping containers, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing in any manner that respondents, or any one or more of them, own and operate or control a plant or factory wherein paper boxes or other shipping containers are manufactured.

It is further ordered, That the respondents shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[1] 6 F.R. 608.

[F. R. Doc. 41–7959; Filed, October 22, 1941; 10:38 a. m.]

[Docket No. 4433]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

IN THE MATTER OF FOOD SERVICE EQUIPMENT INDUSTRY, INC., ET AL.

§ 3.7 *Aiding, assisting and abetting unfair or unlawful act or practice:* § 3.24 (e) *Coercing and intimidating—Suppliers of competitors—By boycotting and threats of:* § 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices:* § 3.27 (f) *Combining or conspiring—To limit distribution to regular or established channels:* § 3.27 (h) *Combining or conspiring—To restrain and monopolize trade:* §3.30 (e) *Cutting off competitors' access to customers or market—Threatening and boycotting competitors:* § 3.33 (e) *Cutting off competitors' supplies—Threatening withdrawal of patronage.* I. In connection with the sale, offering for sale, or distribution in commerce of food service equipment of any type or description, and on the part of respondent Food Service Equipment Industry, Inc., its officers, directors, representatives, etc., and on the part of all members thereof, their officers, etc., including specifically various members joined as representatives thereof, and among other things, as in order set forth, continuing, entering into, or carrying out any agreement, understanding, etc., between or among themselves or with certain manufacturers, certain association of manufacturers, its officers and members, or with others; and acting concertedly or cooperatively with intent or effect of lessening, eliminating or forestalling competition in such offer and sale; through (1) selecting or classifying, according to any standards set up by respondent Food Service Equipment Industry, Inc., jobbers or dealers in such equipment as being or not being "legitimate" or "recognized", or by, or according to, any other classification, whereby certain jobbers or dealers in such equipment are, in any manner or by any method, given any form of approval by said respondent Equipment Industry, Inc., to resell food service equipment, or whereby certain jobbers or dealers are differentiated from other jobbers or dealers in such equipment, for the purpose, or with the intent, or with the effect, of thereby securing, or attempting to secure, for any particular jobbers or dealers or classes of jobbers or dealers in such equipment any special or particular benefits of any nature or description not granted to, or secured by, or for, any other jobbers or dealers in such equip-

ment; (2) issuing, distributing or circulating, by any means or method, to or among manufacturers of food service equipment of any nature or description, a list or enumeration of those jobbers or dealers in such equipment whom respondent Food Service Equipment Industry, Inc., has designated, selected or classified, for the purposes herein prohibited in sub-division (1) of this division of the order; (3) securing, selecting or designating firms, by any means or methods, as members of respondent Food Service Equipment Industry, Inc., where the intent, purpose or effect of said membership is to secure, or attempt to secure, for such members, from the manufacturers of such equipment, special or particular benefits or privileges of any nature or description, not granted or offered by such manufacturers to firms who are not members of respondent Equipment Industry, Inc.; (4) urging or advocating in any manner, or by any method, manufacturers of food service equipment of any nature or description to sell such equipment exclusively or solely through or by means of members of respondent Food Service Equipment Industry, Inc., or through or by means of particular or designated jobbers or dealers in such equipment whom respondent Equipment Industry, Inc., may classify or designate in such a manner as to set them apart from other jobbers, dealers or brokers in such equipment; (5) protesting in any manner, or by any method, to any manufacturer of food service equipment of any nature or description because of such manufacturer's selling such equipment to any jobbers or dealers in such equipment other than those who are members of respondent Food Service Equipment Industry, Inc., or to those jobbers or dealers who are especially selected, classified or approved by said respondent, in the manner hereinbefore described in sub-division (1) of this division of the order, as being entitled to resell such equipment; (6) urging or advocating in any manner, or by any method, manufacturers of food service equipment of any nature or description to refrain from selling such equipment directly to the ultimate users thereof; (7) protesting in any manner, or by any method, to any manufacturer of food service equipment of any nature or description for selling same directly to public service companies, chain stores or other large users of such equipment at lower prices than such purchasers could receive from jobbers or dealers in such equipment who are especially designated, classified or approved by respondent Food Service Equipment Industry, Inc., as being entitled to resell such equipment; (8) selecting, classifying or designating certain manufacturers of food service equipment to be recipients of special awards, such as Honor Roll Certificates, or other designations, from respondent Food Service Equipment Industry, Inc., because of said manufacturers' cooperation in carrying out any or all of the methods, policies, practices, acts or things prohibited in this order, where the purpose, intent or effect of such selection, designation or classification is to cause preference of any nature or description to be given to such manufacturers in purchases by the members of aforesaid respondent, or by other dealers or jobbers of food service equipment; (9) suggesting, advocating or urging by any means or methods that members of respondent Food Service Equipment Industry, Inc., should purchase food service equipment from, or give preference in their purchases of such equipment to, those manufacturers who are recipients of Honor Roll Certificates, or other designations, from respondent Equipment Industry, Inc., prohibited herein in sub-division (8) of this division of the order; (10) issuing, or disseminating or circulating to the members of respondent Food Service Equipment Industry, Inc., or to any other party or parties, by any means or methods, any bulletins, by whatever name called, or any other form of written or printed matter, for the purpose, or with the intent, or with the effect, of listing, or designating, or pointing out by any method, or in any manner, those manufacturers of food service equipment who have received, in the manner or for the reasons hereinbefore set out and prohibited in subdivision (8) of this division of the order, Honor Roll Certificates or any other form of award or recognition from respondent Equipment Industry, Inc.; (11) advocating, or urging by any means or methods a common course of action by members of respondent Food Service Equipment Industry, Inc., to purchase food service equipment from, or give preference in their purchase of such equipment to, any particular type, group or class of manufacturers who assist respondent Industry or respondent Industry Members in carrying out any of the policies, practices, acts or things herein prohibited; (12) refusing or refraining from pitting against each other competing manufacturers of vitrified china products, where the purpose, intent, or effect of such refusal is to prevent, hinder or forestall competition in price among such manufacturers for the sale of their products to dealers or jobbers in food service equipment; (13) waiving or refusing to accept volume discounts from manufacturers of vitrified china products, when such discounts are not contrary to law; (14) refusing to solicit or accept sales for the same decorations on the same makes of vitrified china because a particular jobber or dealer in food service equipment is already being supplied with such decorations; (15) refraining from requesting one manufacturer of vitrified china to copy or duplicate the design of another such manufacturer where such copying or duplicating is not contrary to law; (16) arranging, holding or taking part in any meetings or conferences of officers, directors or members of respondent Food Service Equipment Industry, Inc., of representatives of manufacturers of food service equipment, or of dealers or jobbers of such equipment, for the purpose, intent or with the effect, of continuing, promoting, encouraging or carrying out, in any way, any of the methods, policies, practices, acts or things prohibited by this order; (17) organizing, forming or encouraging in any manner, or by any method, the continuance or creation of any local organization, or organizations, of members of respondent Food Service Equipment Industry, Inc., for the purpose, intent, or with the effect of continuing, promoting, encouraging or carrying out, in any manner or by any method, any of the methods, policies, practices, acts or things prohibited by this order; and (18) supervising or investigating, by means of respondent Food Service Equipment Industry, Inc.'s directors or officers, or by any other means or methods, the practices or policies of competing dealers in food service equipment, for the purpose, or with the intent, or with the effect, of maintaining, or attempting to maintain, any of the methods, policies, practices, acts or things prohibited by this order; prohibited, subject to the proviso that nothing in such order is to be construed as prohibiting any single respondent from selecting its own customers or sources of supply in good faith in the regular or ordinary course of trade, or from entering into any contract or agreement not prohibited by the provisions of the Sherman Anti-Trust Act as amended. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Food Service Equipment Industry, Inc., et al., Docket 4433, October 15, 1941]

§ 3.7 *Aiding, assisting and abetting unfair or unlawful act or practice:* § 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices:* § 3.27 (f) *Combining or conspiring—To limit distribution to regular or established channels:* § 3.27 (h) *Combining or conspiring—To restrain and monopolize trade.* II. In connection with the sale, offering for sale, or distribution in commerce of food service equipment of any type or description, and on the part of all manufacturers of food service equipment who (1) are recipients of Honor Roll Certificates or other awards, etc., from respondent Food Service Equipment Industry, Inc., signifying formers' compliance with latter's requirements, or (2) have cooperated in carrying out policies and practices of aforesaid respondent, and on the part of the officers, etc., of said manufacturers (made respondents through naming as their representatives certain specified concerns), and among other things, as in order set forth, continuing, entering into, or carrying out, any agreement, understanding, etc. (through the receipt of such Honor Roll Certificates or other such awards, etc., from said respondent Food Service Equipment Industry, Inc., or through or by any other means or methods), between or among themselves, or with said respondent Equipment Industry, Inc., or with officers or directors of said last-named respondent, or with its member

dealers, or with respondent American Vitrified China Manufacturers Association and its officers and members, as in order set forth, or with any others, and acting concertedly or cooperatively, with intent or effect of lessening, eliminating, or forestalling competition in the sale or offering for sale of such equipment in said commerce, through (1) refusing or ceasing to sell any of the food service equipment of any nature or description, which any of said respondents manufacture, through any broker, jobber or dealer, because such broker, jobber or dealer in such equipment has not been selected, classified or approved by respondent Food Service Equipment Industry, Inc., or any other group or organization, of jobbers or dealers in such equipment, as entitled to resell such equipment; (2) refusing or ceasing to sell any of such food service equipment to curbstone brokers, commission agents, or any other party or parties who desire to, and are financially and otherwise able to, purchase such equipment from them, because such prospective purchasers have not been, or are not, approved in any manner, or by any method, by respondent Food Service Equipment Industry, Inc., or any other group or organization of jobbers or dealers in such equipment; (3) refusing or ceasing to sell any such food service equipment directly to hotels, restaurants, chain stores and similar large-volume purchasers of such equipment at lower prices than such purchasers could receive from jobbers or dealers in such equipment who have been, or are, approved in any manner by respondent Food Service Equipment Industry, Inc., or any other group or organization of jobbers or dealers in such equipment; and (4) refusing or ceasing to sell any such food service equipment directly to hotels, restaurants, chain stores or other similar large-volume purchasers of such equipment on any basis other than that which is satisfactory to respondent Food Service Equipment Industry, Inc., or any other group or organization of jobbers or dealers in such equipment; prohibited, subject to the proviso that nothing in this order is to be construed as prohibiting any single respondent from selecting its own customers or sources of supply in good faith in the regular or ordinary course of trade, or from entering into any contact or agreement not prohibited by the provisions of the Sherman Anti-Trust Act as amended. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Food Service Equipment Industry, Inc., et al., Docket 4433, October 15, 1941]

§ 3.7 *Aiding, assisting and abetting unfair or unlawful act or practice:* § 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices:* § 3.27 (f) *Combining or conspiring—To limit distribution to regular or established channels:* § 3.27 (h) *Combining or conspiring—To restrain and monopolize trade.* III. In connection with the sale, offering for sale, or distribution in commerce of any type of food service equipment, especially vitrified china products, and on the part of respondent American Vitrified China Manufacturers Association, and respondent individuals, as officers thereof, and on the part of various members and their officers, etc., and among other things, as in order set forth, continuing, entering into, or carrying out, any agreement, understanding, etc., between or among themselves, or with respondent Food Service Equipment Industry, Inc., or with its directors, officers or members, or with certain manufacturers joined as Honor Roll Members, or with others; or acting concertedly or cooperatively, with intent or effect of lessening, eliminating or forestalling competition in the sale or offering for sale of such equipment or products in said commerce; through (1) refusing to sell directly to department stores, which have no china departments, the products manufactured by said respondent corporations, for use in the restaurants of such department stores; (2) endeavoring to sell, or attempting to sell, or selling, such products to department stores having no china departments, exclusively through dealers in food service equipment; (3) endeavoring to sell, or attempting to sell, or selling, such products to chain stores, exclusively through dealers in food service equipment; (4) refusing to sell such products directly to the consumers thereof; (5) refusing to take on, accept or acquire any new broker or agent accounts; and (6) refusing to quote, or refraining from quoting, prices on such products to consumers without first having received consent of the dealers in food service equipment as to the mark-up to be used; prohibited, subject to the proviso that nothing in such order is to be construed as prohibiting any single respondent from selecting its own customers or sources of supply in good faith in the regular or ordinary course of trade, or from entering into any contract or agreement not prohibited by the provisions of the Sherman Anti-Trust Act as amended. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Food Service Equipment Industry, Inc., et al., Docket 4433, October 15, 1941].

In the matter of Food Service Equipment Industry, Inc., a non-profit corporation, I. S. Anoff, M. P. Duke, L. E. Iwert, S. R. Sperans, individually and as officers, and all except L. E. Iwert, also as directors of Food Service Equipment Industry, Inc., A. H. Beadle, S. J. Carson, H. C. Davis, W. F. Dougherty, B. Dohrmann, P. L. Ezekiel, A. W. Forbriger, W. Friedman, C. A. Winchester, C. Winkler, individually, and as directors of Food Service Equipment Industry, Inc.; A. L. Cahn & Sons, a corporation, Duke Manufacturing Co., a corporation, Ezekiel & Weilman Co., Inc., a corporation, Alex Janows & Company, a corporation, Albert Pick Co., Inc., a corporation, The Stearnes Company, a corporation, Straus-Duparquet, Inc., a corporation, individually, and as representative members of Food Service Equipment Industry, Inc.; American Stove Co., a corporation, Josiah Anstice & Co., Inc., a corporation, G. S. Blakeslee & Co., a corporation, G. S. Blodgett Co., Inc., a corporation, Carrollton Metal Products Co., a corporation, Colt's Patent Fire Arms Manufacturing Co., a corporation, Detroit-Michigan Stove Co., a corporation, Hobart Manufacturing Co., a corporation, Lalance-Grosjean Manufacturing Co., a corporation, McGraw Electric Co., a corporation, Polar Ware Co., a corporation, Standard Gas Equipment Corporation, a corporation, United States Stamping Co., a corporation, Vollrath Co., a corporation, individually, and as representatives of the recipients of Honor Roll Certicates from Food Service Equipment Industry, Inc.; Illinois Brass Mfg. Co., a corporation; Columbia Stamping and Enameling Co., a corporation; American Vitrified China Manufacturers Association, an unincorporated association; Albert M. Walker and James K. Love, individually, and as president and secretary-treasurer, respectively, of American Vitrified China Manufacturers Association; Bailey-Walker China Co., a corporation, Buffalo Pottery Co., Inc., a corporation, Carr China Company, a corporation, Iroquois China Co., a corporation, Jackson Vitrified China Co., a corporation, D. E. McNichol Co. of W. Va., a corporation, Mayer China Company, a corporation, Onondaga Pottery Co., a corporation, Scammell China Company, a corporation, Shenango Pottery Co., a corporation, Sterling China Company, a corporation, Wellsville China Co., a corporation, individually, and as members of American Vitrified China Manufacturers Association

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on 15th day of October, A. D. 1941.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of the respondents and a stipulation as to the facts entered into by all of the respondents, except Illinois Brass Mfg. Co., and W. T. Kelley, Chief Counsel for the Commission, which provides, among other things, that, without further evidence or other intervening procedure, the Commission may issue and serve upon the respondents named in said stipulation, findings as to the facts and conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that all of the respondents named in the caption hereof, except respondents Illinois Brass Mfg. Co. and Columbian Enameling and Stamping Company, Inc. (referred to in the complaint as Columbia Stamping and

Enameling Company), have violated Section 5 of the provisions of the Federal Trade Commission Act, the Commission issues the following order to cease and desist from such violations:

I

It is ordered, That respondents Food Service Equipment Industry, Inc., a non-profit corporation, I. S. Anoff, M. P. Duke, (Miss) L. E. Iwert, and S. R. Sperans, as officers of respondent Food Service Equipment Industry, Inc., A. H. Beadle, S. J. Carson, H. C. Davis, W. F. Dougherty, B. Dohrmann, P. L. Ezekiel, A. W. Forbriger, W. Friedman, C. A. Winchester, and C. Winkler, as directors of respondent Food Service Equipment Industry, Inc., together with any and all of the other officers, directors, representatives, agents and employees of said respondent Food Service Equipment Industry, Inc., and its successors and assigns, and all of the members of respondent Food Service Equipment Industry, Inc., their officers, directors, representatives, agents and employees, successors and assigns, and which members were made respondents herein by naming as their representatives, respondents A. L. Cahn & Sons, a corporation, Duke Manufacturing Co., a corporation, Ezekiel & Weilman Co., Inc., a corporation, Alex Janows & Company, a corporation, Albert Pick Co., Inc., a corporation, The Stearnes Company, a corporation, and Straus-Duparquet, Inc., a corporation, directly or indirectly, or through any corporate or other device, in connection with the sale, offering for sale, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of food service equipment of any type or description, do forthwith cease and desist from continuing, entering into, or carrying out, any agreement, understanding or combination, express or implied, between or among themselves or with any of the other respondents named in the caption hereof, or with others, and from concerted action or cooperative effort, for the purpose, intent, or with the effect, of lessening, eliminating, restricting, hampering, suppressing or forestalling competition in the sale, or offering for sale of such equipment in said commerce, by the following methods, policies, practices, acts or things, or any one or more thereof, to-wit:

(1) Selecting or classifying, according to any standards set up by respondent Food Service Equipment Industry, Inc., jobbers or dealers in such equipment as being or not being "legitimate" or "recognized", or by, or according to, any other classification, whereby certain jobbers or dealers in such equipment are, in any manner or by any method, given any form of approval by said respondent Food Service Equipment Industry, Inc. to resell food service equipment, or whereby certain jobbers or dealers are differentiated from other jobbers or dealers in such equipment, for the purpose, or with the intent, or with the effect, or thereby securing, or attempting to secure, for any particular jobbers or dealers or classes of jobbers or dealers in such equipment any special or particular benefits of any nature or description not granted to, or secured by, or for, any other jobbers or dealers in such equipment;

(2) Issuing, distributing or circulating, by any means or method, to or among manufacturers of food service equipment of any nature or description, a list or enumeration of those jobbers or dealers in such equipment whom respondent Food Service Equipment Industry, Inc., has designated, selected or classified for the purposes herein prohibited in sub-paragraph (1) of this paragraph;

(3) Securing, selecting or designating firms, by any means or methods, as members of respondent Food Service Equipment Industry, Inc., where the intent, purpose or effect of said membership is to secure, or attempt to secure, for such members, from the manufacturers of such equipment, special or particular benefits or privileges of any nature or description, not granted or offered by such manufacturers to firms who are not members of respondent Food Service Equipment Industry, Inc.;

(4) Urging or advocating in any manner, or by any method, manufacturers of food service equipment of any nature or description to sell such equipment exclusively or solely through, or by means of, members of respondent Food Service Equipment Industry, Inc., or through, or by means of, particular or designated jobbers or dealers in food service equipment whom respondent Food Service Equipment Industry, Inc., may classify or designate in such a manner as to set them apart from other jobbers, dealers or brokers in such equipment;

(5) Protesting in any manner, or by any method, to any manufacturer of food service equipment of any nature or description because of such manufacturer's selling such equipment to any jobbers or dealers in such equipment other than those who are members of respondent Food Service Equipment Industry, Inc., or to those jobbers or dealers who are especially selected, classified or approved by respondent Food Service Equipment Industry, Inc., in the manner hereinbefore described in sub-paragraph (1) of this paragraph, as being entitled to resell such equipment;

(6) Urging or advocating in any manner, or by any method, manufacturers of food service equipment of any nature or description to refrain from selling such equipment directly to the ultimate users thereof;

(7) Protesting in any manner, or by any method, to any manufacturer of food service equipment of any nature or description for selling same directly to public service companies, chain stores or other large users of such equipment at lower prices than such purchasers could receive from jobbers or dealers in such equipment who are especially designated, classified or approved by respondent Food Service Equipment Industry, Inc., as being entitled to resell such equipment;

(8) Selecting, classifying or designating certain manufacturers of food service equipment to be recipients of special awards, such as Honor Roll Certificates, or other designations, from respondent Food Service Equipment Industry, Inc., because of said manufacturers' cooperation in carrying out any or all of the methods, policies, practices, acts or things prohibited in this order, where the purpose, intent or effect of such selection, designation or classification is to cause preference of any nature or description, to be given to such manufacturers in purchases by the members of respondent Food Service Equipment Industry, Inc., or by other dealers or jobbers of food service equipment;

(9) Suggesting, advocating or urging by any means or methods that members of respondent Food Service Equipment Industry, Inc., should purchase food service equipment from, or give preference in their purchases of such equipment to, those manufacturers who are recipients of Honor Roll Certificates, or other designations, from respondent Food Service Equipment Industry, Inc., prohibited herein in sub-paragraph (8) of this paragraph;

(10) Issuing, or disseminating or circulating to the members of respondent Food Service Equipment Industry, Inc., or to any other party or parties, by any means or methods, any bulletins, by whatever name called, or any other form of written or printed matter, for the purpose, or with the intent, or with the effect, of listing, or designating, or pointing out by any method, or in any manner, those manufacturers of food service equipment who have received, in the manner or for the reasons hereinbefore set out and prohibited in sub-paragraph (8) of this paragraph, Honor Roll Certificates or any other form of award or recognition from respondent Food Service Equipment Industry, Inc.;

(11) Advocating or urging by any means or methods a common course of action by members of respondent Food Service Equipment Industry, Inc., to purchase food service equipment from, or give preference in their purchase of such equipment to, any particular type, group or class of manufacturers who assist respondent Industry or respondent Industry Members in carrying out any of the policies, practices, acts or things herein prohibited;

(12) Refusing or refraining from pitting against each other competing manufacturers of vitrified china products, where the purpose, intent, or effect of such refusal is to prevent, hinder or forestall competition in price among such manufacturers for the sale of their products to dealers or jobbers in food service equipment;

(13) Waiving or refusing to accept volume discounts from manufacturers of

vitrified china products, when such discounts are not contrary to law;

(14) Refusing to solicit or accept sales for the same decorations on the same makes of vitrified china because a particular jobber or dealer in food service equipment is already being supplied with such decorations;

(15) Refraining from requesting one manufacturer of vitrified china to copy or duplicate the design of another such manufacturer where such copying or duplicating is not contrary to law;

(16) Arranging, holding or taking part in any meetings or conferences of officers, directors or members of respondent Food Service Equipment Industry, Inc., of representatives of manufacturers of food service equipment, or of dealers or jobbers of such equipment, for the purpose, intent, or with the effect, of continuing, promoting, encouraging or carrying out, in any way, any of the methods, policies, practices, acts or things prohibited by this order;

(17) Organizing, forming or encouraging in any manner, or by any method, the continuance or creation of any local organization, or organizations, of members of respondent Food Service Equipment Industry, Inc., for the purpose, intent, or with the effect of continuing, promoting, encouraging or carrying out, in any manner or by any method, any of the methods, policies, practices, acts or things prohibited by this order;

(18) Supervising or investigating, by means of respondent Food Service Equipment Industry, Inc.'s directors or officers, or by any other means or methods, the practices or policies of competing dealers in food service equipment, for the purpose, or with the intent, or with the effect, of maintaining, or attempting to maintain, any of the methods, policies, practices, acts or things prohibited by this order.

II

It is further ordered, That all manufacturers of food service equipment who are recipients of Honor Roll Certificates or other awards or designations from respondent Food Service Equipment Industry, Inc., which signify or point out that such manufacturers have complied with the requirements of respondent Food Service Equipment Industry, Inc., to receive such certificates, awards or designations, or who have cooperated in carrying out the policies and practices of said respondent Food Service Equipment Industry, Inc., together with the officers, directors, representatives, agents, employees and the successors and assigns of each of said manufacturers, and which manufacturers were made respondents herein by naming as their representatives, the respondents American Stove Co., a corporation, Josiah Anstice & Co., Inc., a corporation, G. S. Blakeslee & Co., a corporation, G. S. Blodgett Co., Inc., a corporation, Carrollton Metal Products Co., a corporation, Colt's Patent Fire Arms Manufacturing Co., a corporation, Detroit-Michigan Stove Co., a corporation, Hobart Manufacturing Co., a corporation, Lalance-Grosjean Manufacturing Co., a corporation, McGraw Electric Co., a corporation, Polar Ware Co., a corporation, Standard Gas Equipment Corporation, a corporation, United States Stamping Co., a corporation, Vollrath Co., a corporation, Buffalo Pottery, Inc., a corporation (referred to in the complaint as Buffalo Pottery Co., Inc.) and D. E. McNichol Co. of W. Va., a corporation, directly or indirectly, or through any corporate or other device, in connection with the sale, offering for sale, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of food service equipment of any type or description, do forthwith cease and desist from continuing, entering into, or carrying out, any agreement, understanding or combination, express or implied (through the receipt of such Honor Roll Certificates or other such awards or designations, from respondent Food Service Equipment Industry, Inc., or through or by any other means or methods) between or among themselves, or with respondent Food Service Equipment Industry, Inc., or with any of the other respondents named in this order or with any other person, partnership, firm or corporation, and from concerted action or cooperative effort, for the purpose, or with the intent, or with the effect, of lessening, eliminating, restraining, hampering, suppressing or forestalling competition in the sale or offering for sale of such equipment in said commerce, by the following methods, policies, practices, acts or things, or any one or more thereof, to-wit:

(1) Refusing or ceasing to sell any of the food service equipment of any nature or description, which any of said respondents manufacture, through any broker, jobber or dealer, because such broker, jobber or dealer in such equipment has not been selected, classified or approved by respondent Food Service Equipment, Inc., or any other group or organization, of jobbers or dealers in such equipment, as entitled to resell such equipment;

(2) Refusing or ceasing to sell any of such food service equipment to curbstone brokers, commission agents, or any other party or parties who desire to, and are financially and otherwise able to, purchase such equipment from them, because such prospective purchasers have not been, or are not, approved in any manner, or by any method, by respondent Food Service Equipment Industry, Inc., or any other group or organization of jobbers or dealers in such equipment;

(3) Refusing or ceasing to sell any such food service equipment directly to hotels, restaurants, chain stores and similar large-volume purchasers of such equipment at lower prices than such purchasers could receive from jobbers or dealers in such equipment who have been, or are, approved in any manner by respondent Food Service Equipment Industry, Inc., or any other group or organization of jobbers or dealers in such equipment;

(4) Refusing or ceasing to sell any such food service equipment directly to hotels, restaurants, chain stores or other similar large-volume purchasers of such equipment on any basis other than that which is satisfactory to respondent Food Service Equipment Industry, Inc., or any other group or organization of jobbers or dealers in such equipment.

III

It is further ordered, That respondent American Vitrified China Manufacturers Association, an unincorporated association, and respondents Bailey-Walker China Co., a corporation, Buffalo Pottery, Inc., a corporation (referred to in the complaint as "Buffalo Pottery Co., Inc."), Carr China Company, a corporation, Iroquois China Co., a corporation, Jackson Vitrified China Co., a corporation, D. E. McNichol Co. of W. Va., a corporation, Mayer China Company, a corporation, Onandaga Pottery Co., a corporation, Scammell China Company, a corporation, Shenango Pottery Co., a corporation, Sterling China Company, a corporation, and Wellsville China Co., a corporation, both individually and as members of respondent American Vitrified China Manufacturers Association, and the respective officers, directors, representatives, agents, employees, successors and assigns of each of said respondents, and also respondents Albert M. Walker and James K. Love, as president and as secretary-treasurer, respectively, of respondent American Vitrified China Manufacturers Association, directly or indirectly, or through any corporate or other device, in connection with the sale, offering for sale, or distribution in commerce, as "Commerce" is defined in the Federal Trade Commission Act, of any type of food service equipment, especially any vitrified china products, do forthwith cease and desist from continuing, entering into or carrying out, any agreement, understanding or combination, express or implied, between or among themselves or with any of the other respondents named herein, especially respondent Food Service Equipment Industry, Inc., or with others, and from concerted action or cooperative effort, for the purpose, with the intent, or with the effect, of lessening, eliminating, restraining, hampering or forestalling competition in the sale or offering for sale of such equipment or products in said commerce, by the following methods, policies, practices, acts and things, or any one or more thereof, to-wit:

(1) Refusing to sell directly to department stores, which have no china departments, the products manufactured by said respondent corporations, for use in the restaurants of such department stores;

(2) Endeavoring to sell, or attempting to sell, or selling, such products to department stores having no china departments, exclusively through dealers in food service equipment;

(3) Endeavoring to sell, or attempting to sell, or selling, such products to chain

stores, exclusively through dealers in food service equipment;

(4) Refusing to sell such products directly to the consumers thereof;

(5) Refusing to take on, accept or acquire any new broker or agent accounts;

(6) Refusing to quote, or refraining from quoting, prices on such products to consumers without first having received consent of the dealers in food service equipment as to the mark-up to be used.

IV

It is further ordered, That nothing in this order is to be construed as prohibiting any single respondent from selecting its own customers or sources of supply, in good faith in the regular or ordinary course of trade, or from entering into any contract or agreement not prohibited by the provisions of the Sherman Anti-Trust Act as amended.

V

It is further ordered, That the case growing out of the complaint herein be, and the same hereby is, closed as to the respondents Illinois Brass Mfg. Co., Columbian Enameling and Stamping Company, Inc. (referred to in the complaint as Columbia Stamping and Enameling Co.), and also as to respondents I. S. Anoff, M. P. Duke, (Miss) L. E. Iwert, S. R. Sperans, A. H. Beadle, S. J. Carson, H. C. Davis, W. F. Dougherty, B. Dohrmann, P. L. Ezekiel, A. W. Forbriger, W. Friedman, C. A. Winchester, C. Winkler, Albert M. Walker and James K. Love, individually (but not as to such individual respondents when they are acting in their respective official capacities as officers and directors of respondents Food Service Equipment Industry, Inc., or American Vitrified China Manufacturers Association), but without prejudice to the right of the Commission, should future facts so warrant, to reopen the same and resume prosecution thereof in accordance with its regular procedure.

It is further ordered, That all, and each, of the respondents named in the caption hereof, except those respondents against whom the case growing out of the complaint has been closed by Paragraph V of this order, shall, in their individual and official or representative capacities, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41-7958; Filed, October 22, 1941; 10:38 a. m.]

[Docket No. 4510]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

IN THE MATTER OF KAY'S CUT RATE, ETC.

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.6 (y) *Advertising falsely or misleadingly—Safety:* § 3.71 (e) *Neglecting, unfairly or deceptively, to make material disclosure—Safety.* In connection with offer, etc., of respondents' "Madame Bea's Capsules" or any other substantially similar medicinal preparation, disseminating, etc., any advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase in commerce, etc., of said preparation, which advertisements represent, directly or by implication, that said preparation constitutes a competent or effective treatment for delayed, unnatural or suppressed menstruation, or that it is safe or harmless; or which advertisments fail to reveal that the use of said preparation may cause gastro-intestinal disturbances and excessive congestion and hemorrhage of the pelvic organs, and in cases of pregnancy may cause uterine infection and blood poisoning; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Kay's Cut Rate, etc., Docket 4510, October 14, 1941]

In the Matter of David L. Silver and O. C. Cowles, individually, and trading as Kay's Cut Rate and as Kay's Cut Rate Drugs

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of October, A. D. 1941.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondents, in which answer the respondents admit all of the material allegations of fact set forth in said complaint, and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents David L. Silver and O. C. Colwes, individually, and trading as Kay's Cut Rate and as Kay's Cut Rate Drugs, or trading under any other name or names, their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of their medicinal preparation known as Madame Bea's Capsules, or any other medicinal preparation or product of substantially similar composition or possessing substantially similar properties, whether sold under the same name or any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or by implication, that said preparation constitutes a competent or effective treatment for delayed, unnatural or suppressed menstruation, or that said preparation is safe or harmless; or which advertisement fails to reveal that the use of said preparation may cause gastro-intestinal disturbances and excessive congestion and hemorrhage of the pelvic organs, and in cases of pregnancy may cause uterine infection and blood poisoning;

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisement contains any of the representations prohibited in paragraph 1 hereof, or which advertisement fails to reveal that the use of said preparation may cause gastro-intestinal disturbances and excessive congestion and hemorrhage of the pelvic organs, and in cases of pregnancy may cause uterine infection and blood poisoning.

It is further ordered, That respondents shall, within ten (10) days after service upon them of this order file with the Commission an interim report in writing, stating whether they intend to comply with this order, and, if so, the manner and form in which they intend to comply; and that within sixty (60) days after the service of this order, respondents shall file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41-7960; Filed, October 22, 1941; 10:39 a. m.]

TITLE 24—HOUSING CREDIT

CHAPTER III—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[Res., 10-21-41]

PART 301—INSURANCE OF ACCOUNTS

AMENDMENT RELATING TO THE ISSUANCE OF DEBENTURES IN PAYMENT OF INSURANCE

Be it resolved, That § 301.19 (b) (2) of the Rules and Regulations for Insurance of Accounts is amended, effective October 22, 1941, to read as follows:

§ 301.19 *Settlement of insurance upon default.*

* * * * *

(b) *Method of determining amount of each insured account; payments to each insured member.*

* * * * *

(2) The amount of his account which is insured, as follows: 10 percent in cash, 45 percent in negotiable noninterest-bearing debentures of the Corporation due within 1 year from the date of the

default, and 45 percent in such debentures due within 3 years from the date of default.

Be it further resolved, That this amendment is deemed to be of a procedural character within the provisions of paragraph (c) of § 301.22 of the Rules and Regulations for Insurance of Accounts. (Secs. 401 (d), 402 (a), 405 (b), 48 Stat. 1256, 1259, sec. 406 (b), 48 Stat. 1260, sec. 26, 49 Stat. 299; 12 U.S.C. 1724 (d), 1725 (a), 1728 (b), 12 U.S.C. 1729 (b), and Sup.)

[SEAL] J. FRANCIS MOORE,
Secretary.

[F. R. Doc. 41-7967; Filed, October 22, 1941; 11:58 a. m.]

TITLE 30—MINERAL RESOURCES

CHAPTER III—BITUMINOUS COAL DIVISION

[Docket No. A-454]

PARTS 322, 323, AND 326—MINIMUM PRICE SCHEDULE, DISTRICT NOS. 2, 3, AND 6

MEMORANDUM OPINION AND ORDER APPROVING AND ADOPTING THE PROPOSED FINDINGS OF FACT AND PROPOSED CONCLUSIONS OF LAW OF THE EXAMINER AND GRANTING RELIEF IN THE MATTER OF THE PETITION OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 3 FOR REVISION OF THE EFFECTIVE MINIMUM PRICES FOR THE COALS OF DISTRICT NO. 3 FOR ALL-RAIL SHIPMENTS TO CERTAIN DESTINATIONS IN MARKET AREAS 11, 12 AND 13

This proceeding was instituted upon a petition filed by District Board 3 with the Bituminous Coal Division, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937. The petition requested temporary and permanent orders reducing the effective minimum prices of coal shipped all-rail by producers in District 3 into Akron, Canton, Ceico, Cleveland, Lorain, South Lorain, Massillon, and Warren, Ohio, destinations in Market Areas 11, 12, and 13, to the extent of eight cents per net ton. Intervening petitions were filed by District Boards 1, 2, 4, 6, and 7. An appearance was entered by the Consumers' Counsel Division.

By Order of the Director, as subsequently modified, the following temporary relief was granted: "All effective minimum prices set forth in the Schedules of Effective Minimum Prices for Districts 2, 3, 4 and 6, inclusive, for shipment ex-river, via Colona and Conway, Pennsylvania, shall forthwith be increased 7½ cents per net ton except when such shipment is made to Youngstown, Ohio, or Walford, Pennsylvania, or points intermediate between Colona and Conway, Pennsylvania, and Youngstown, Ohio, and Walford, Pennsylvania, via route of movement in accordance with intermediate rule contained in applicable tariffs of the Pennsylvania Railroad and the Pittsburgh and Lake Erie Railroad."

Pursuant to Orders of the Director and after due notice to all interested parties, a hearing in this matter was held before W. A. Shipman, a duly designated Examiner of the Division, at a hearing room thereof, in Washington, D. C. On September 11, 1941, the Examiner submitted Proposed Findings of Fact, Proposed Conclusions of Law, and Recommendations in this matter, recommending the amendment of the price schedules of Districts 2, 3, and 6 for shipment ex-river, via Colona and Conway, Pennsylvania, in accordance with the temporary relief theretofore granted by the Director. An opportunity was afforded all parties to file exceptions to the Proposed Findings of Fact, Proposed Conclusions of Law, and Recommendations of the Examiner, and supporting briefs. On October 13, 1941, the Office of the Bituminous Coal Consumers' Counsel filed exceptions.

On October 25, 1940, the railroads serving Colona and Conway promulgated new rate schedules effective November 25, 1940, under which the railroads reduced their lifting charge at those points from 13 cents to 5½ cents for coal shipped to Akron, Canton, Ceico, Cleveland, Lorain, South Lorain, Massillon, and Warren. This reduction resulted in a delivered price for coals shipped ex-river to these points 7½ cents lower than the delivered price for all-rail shipments.

The district boards which appeared herein sought an adjustment of the f. o. b. mine price of ex-river and all-rail coals so that the parity which existed prior to October 1, 1940, and from that date to November 25, 1940, would be restored. District Board 3 sought such restoration by reducing by eight cents per ton the f. o. b. mine prices of coal shipped all-rail to the destinations in question. District Boards 1, 4, 6, and 7 urged that the f. o. b. mine prices for ex-river coals should be raised 7½ cents per ton. District Board 2 indicated no preference for either procedure. The Consumers' Counsel Division urged, as the Office of the Bituminous Coal Consumers' Counsel now urges in its exceptions, that the schedules of effective minimum prices should not be changed but that the producers who have ex-river shipping facilities should be allowed to pass on to consumers the competitive advantage afforded them by the lowered lifting charges.

In its exceptions, the Bituminous Coal Consumers' Counsel contends that the effect of the Examiner's recommendations, if adopted by the Division, would be to counteract and frustrate valid freight rate reductions, whether ordered by the Interstate Commerce Commission or extended by the railroads themselves, to the detriment of consumers. However, under the mandate of the Congress requiring the Division to consider transportation charges in coordinating the minimum prices established pursuant to the Act, any important revision in transportation charges which affects coordination raises the question of whether an appropriate revision of the effective minimum prices must be made.

In this case, the lowered lifting charges put into effect by the railroads, operated to disrupt the coordination of the ex-river and all-rail coals moving to the destinations in question. Prior to October 1, 1940, but about 10 per cent of the coals moving to Market Areas 11, 12, and 13 moved ex-river under circumstances where prices for similar coals moving to the same destinations by rail and ex-river were on a substantial parity. The reduced lifting charges put into effect by the railroads on November 25, 1940, resulted in the cessation of all-rail shipments from District 3 to the destinations in question in Market Areas 11, 12, and 13 until after the issuance of the temporary relief herein restoring the parity between rail and ex-river shipments. Under these circumstances, it is clear that to adopt the contention of the Bitumnious Coal Consumers' Counsel, while perhaps resulting in some benefit to some consumers in Market Areas 11, 12, and 13, would be seriously to impair and disrupt the coordination of all-rail and ex-river prices. As found by the Examiner, that coordination was originally accomplished by using a proper delivered price for all-rail coals as a base and coordinating thereafter the prices of ex-river coals so that the same delivered price would be maintained regardless of the method of shipment.

In accordance with the provisions of the Act, the Division, in the regulation of the minimum price level, pays due regard to the interests of the consuming public. This does not mean, however, that in regulating the minimum price structure of bituminous coal, the other standards of the Act can be disregarded. These standards, indeed the maintenance of a sound price structure, require that minimum prices be coordinated in common consuming market areas upon a fair competitive basis, that transportation methods and charges and their effect upon a reasonable opportunity to compete on a fair basis shall be considered, and that the prices shall preserve as nearly as may be existing fair competitive opportunities. Although the Act does not seek to "freeze" market conditions, the requirement that existing fair competitive opportunities be preserved does necessitate a readjustment of the coordination of coals moving by different methods so as to allow the continued movement of such coals on a fair competitive basis. Nor has the Bituminous Coal Consumers' Counsel shown, nor does the record indicate, that consumers will necessarily be injured by the increase in the effective minimum prices recommended by the Examiner.

On the basis of the above opinion and for the reasons stated therein, I conclude that the exceptions are without merit and that the Proposed Findings of Fact and Proposed Conclusions of Law of the Examiner should be approved and adopted as the Findings of Fact and Conclusions of Law of the undersigned.

The Order granting temporary relief herein was issued on December 26, 1940,

5 F.R. 5293. On December 31, 1940, the Pursglove Coal Mining Company, a code member producer in District 3, loaded one barge of coal for shipment to Market Area 13 via Colona, and on January 2, 1941, shipped the same. The loading and shipping occurred prior to Pursglove's receiving notice of the Order of December 26. Pursglove has filed a verified application for permission to invoice the aforesaid barge load at the minimum price in effect immediately prior to the Order of December 26, 1940. I find that such relief should be granted.

Now, therefore, it is ordered, That the said Proposed Findings of Fact and Proposed Conclusions of Law of the Examiner be, and they hereby are, adopted as the Findings of Fact and Conclusions of Law of the undersigned.

It is further ordered, That all effective minimum prices set forth in § 322.9 (*Special prices*—(e) *Ex-river coal*), § 323.8 (*Special prices*—(f) *Ex-river coal*), and § 326.8 (*Special prices*—(f) *Prices for ex-river shipment from mines having river loading facilities*) in the Schedules of Effective Minimum Prices for Districts 2, 3, and 6, for shipment ex-river, via Colona and Conway, Pennsylvania, shall forthwith be increased 7½ cents per net ton, except when such shipment is made to Youngstown, Ohio, or Walford, Pennsylvania, or points intermediate between Colona and Conway, Pennsylvania, and Youngstown, Ohio, and Walford, Pennsylvania, via route of movement in accordance with intermediate rule contained in applicable tariffs of the Pennsylvania Railroad and the Pittsburgh and Lake Erie Railroad.

It is further ordered, That the Pursglove Coal Mining Company be, and it hereby is, permitted to invoice the contents of one barge, loaded by it on December 31, 1940, and shipped by it on January 2, 1941, to Market Area 13 via Colona, Pennsylvania, at the minimum price for such coal which was effective immediately prior to the Order herein dated December 26, 1940.

It is further ordered, That the prayers for relief contained in the several petitions filed herein are granted to the extent set forth above, and in all other respects denied.

Dated: October 21, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7951; Filed, October 22, 1941; 10:21 a. m.]

[Docket No. A-972]

PART 328—MINIMUM PRICE SCHEDULE, DISTRICT NO. 8

FINDINGS OF FACT, CONCLUSIONS OF LAW, MEMORANDUM OPINION AND ORDER IN THE MATTER OF THE PETITION OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 8 FOR REDUCTIONS IN THE EFFECTIVE MINIMUM PRICES APPLICABLE TO THE COALS OF THE KREGER MINING COMPANY (MINE INDEX NO. 2211) FOR TRUCK SHIPMENT

This proceeding was instituted upon an original petition filed with the Bituminous Coal Division, pursuant to the provisions of the Bituminous Coal Act of 1937, by District Board 8. The petition requests a revision in the effective minimum prices, for truck shipment, established for the coals produced at Compton Mine (Mine Index No. 2211) operated by the Kreger Mining Company, a code member producer in District 8.[1]

Pursuant to an Order of the Director dated August 13, 1941, and after due notice to all interested persons, a hearing was held in this matter on September 10, 1941, before Edward J. Hayes, a duly designated Examiner of the Bituminous Coal Division at a hearing room of the Division in Washington, D. C. All interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard. Only original petitioner appeared at the hearing. The preparation and filing of a report by the Examiner was waived, and the matter was thereupon submitted to the undersigned, who has considered the record of this proceeding.

The petition of District Board 8 herein requests a revision in the effective minimum prices heretofore established for the coals produced at the Compton Mine (Mine Index No. 2211) for truck shipment. This mine is located in Russell County, Virginia, in District 8. The prices proposed by the District Board are based upon a requested change in seam designation.

A witness for the District Board testified that he had made a personal investigation of the Compton Mine and found that the mine is producing in the Upper Banner Seam, rather than in the Widow Kennedy Seam as presently designated in the schedule. He stated that the prices herein requested are the same as those established for comparable coals produced from the Upper Banner Seam by mines located in close proximity to the Compton Mine. These prices are 10 and 20 cents per ton lower in certain size groups than those presently established for the Compton Mine coals. It was the opinion of the witness that the prices herein requested will reflect the relative market value of the Compton Mine coals and will not have any detrimental effect upon competing coals.

Upon the basis of the uncontroverted evidence, I find and conclude: (1) that the minimum prices and the seam designation shown in the schedule hereto attached for the coals produced at the Compton Mine are proper and should be established; that said prices conform with the prices heretofore established for analogous and similar coals of District 8; (2) that such amendment of the Schedule of Effective Minimum Prices for District No. 8 for Truck Shipments is required in order to effectuate the purposes of section 4 II (a) and 4 II (b) of the Act and to comply with the standards thereof.

Now, therefore, it is ordered, That commencing forthwith § 328.34 (*General prices for high volatile coals in cents per net ton for shipment into all market areas*) in the Schedule of Effective Minimum Prices for District No. 8 for Truck Shipments be, and it hereby is, amended by adding thereto Supplement T, which supplement is hereinafter set forth and hereby made a part hereof.

Dated: October 7, 1941.

[SEAL] H. A. GRAY,
Director.

[1] It appears that the Kreger Mining Company has succeeded the Compton Coal Company as the operator of the Compton Mine.

EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 8

NOTE: The material in this Supplement is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 328, Minimum Price Schedule for District No. 8 and Supplements thereto.

FOR TRUCK SHIPMENTS

§ 328.34 *General prices for high volatile coals in cents per net ton for shipment into all market areas*—Supplement T

Code member index	Mine	Mine index No.	Seam	Base sizes							
				Lump over 2", egg 4" x 6"	Lump 2" and under, egg 3" x 6"	Lump ¾" and under	Egg 2" x 4", egg 2" x 6"	Stove 3" and under, nut 2" and under	Straight mine run	2" and under slack	¾" and under slack
				1	2	3	4	5	6	7	8
SUB-DISTRICT NO. 7—VIRGINIA											
RUSSELL COUNTY											
Kreger Mining Company	Compton	2,211	Upper Banner	265	245	220	220	215	210	155	150

[F. R. Doc. 41-7919; Filed, October 21, 1941; 10:40 a. m.]

[Docket Nos. A-209, A-220, A-292, A-294, A-311, A-395, and A-457-A-458]

PART 330—MINIMUM PRICE SCHEDULE, DISTRICT NO. 10

ORDER AMENDING ORDER GRANTING PERMANENT RELIEF IN THE MATTER OF THE PETITIONS OF CERTAIN PRODUCERS IN WILLIAMSON AND SALINE COUNTIES, DISTRICT 10, FOR A REDUCTION OF MINIMUM PRICES

On September 9, 1941, 6 F.R. 4662, the Director issued his Findings of Fact, Conclusions of Law, and Opinion in the above-entitled proceedings, and issued an Order Granting Permanent Relief therein. That Order, *inter alia*, reduced the prices for certain coals of District 10 for shipment by truck. The Director has been advised that the Order of September 9, 1941, is ambiguous and does not clearly indicate that the reductions ordered are limited to prices of coals for shipment by truck. It appears advisable that this ambiguity should be eliminated.

Now, therefore, it is ordered, That the next to the last paragraph of the Order Granting Permanent Relief entered in this proceeding on September 9, 1941, be and it hereby is amended and revised to read as follows:

It is ordered, That commencing forthwith, the effective minimum prices applicable to all mines in Section 10 of District 10 which are set forth in § 330.25 (*General prices in cents per net ton for shipment into all market areas*) in the Schedule of Effective Minimum Prices for District 10 for Truck Shipments shall be and the same are hereby reduced for shipments by truck as follows: Size Group 8 from $1.80 to $1.60; Size Group 9 from $1.75 to $1.50; Size Groups 10, 11, and 12 from $1.65 to $1.50; Size Group 13 from $1.40 to $1.30; and Size Group 15 from $0.75 to $0.65 per ton f. o. b. the mine; and that the effective minimum prices in all size groups for Mine Index 40 (Augustina Coloni) for truck shipments be and the same are hereby established the same as those for the above-mentioned mines in Section 10 of District 10, as herein revised.

Dated: October 21, 1941.

[SEAL] H. A. GRAY, *Director.*

[F. R. Doc. 41-7957; Filed, October 22, 1941; 10:23 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

SUBTITLE A—OFFICE OF THE SECRETARY OF THE TREASURY

[Dept. Circ. 230 Amended]

PART 10—PRACTICE OF ATTORNEYS AND AGENTS BEFORE THE TREASURY DEPARTMENT [1]

Part 10 is hereby amended by changing the name of the Committee on Enrollment and Disbarment to the Committee on Practice.

[SEAL] HERBERT E. GASTON, *Acting Secretary of the Treasury.*

OCTOBER 17, 1941.

[F. R. Doc. 41-7937; Filed, October 21, 1941; 8:15 p. m.]

[Dept. Circ. 559 Amended]

PART 11—CUSTOMHOUSE BROKERS [1]

Part 11 is hereby amended by changing the name of the Committee on Enrollment and Disbarment to the Committee on Practice.

[SEAL] HERBERT E. GASTON, *Acting Secretary of the Treasury.*

OCTOBER 17, 1941.

[F. R. Doc. 41-7936; Filed, October 21, 1941; 8:15 p. m.]

TITLE 32—NATIONAL DEFENSE

CHAPTER XI—OFFICE OF PRICE ADMINISTRATION

PART 1314—RAW MATERIALS FOR SHOES AND LEATHER PRODUCTS

PRICE SCHEDULE NO. 9 [2]—HIDES, KIPS AND CALFSKINS

Sections 1314.4, 1314.11 and 1314.12 are amended to read as follows:

§ 1314.4 *Commissions.* In the event that a seller of hides, kips or calfskins shall employ a broker to sell hides, kips or calfskins on his behalf, or in the event that a buyer shall employ a broker to buy, receive and ship hides, kips or calfskins on his behalf, a brokerage commission of not more than 3% of the purchase price may be charged for such services and added to the applicable maximum price established hereunder. A commission may not be charged to both buyer and seller. A commission shall be payable only if (a) it is shown as a separate charge in billing; (b) the hides, kips or calfskins are purchased or sold at a price not higher than the applicable maximum price established by this Schedule; and (c) no broker splits or divides the commission with the buyer or with the seller, or with an agent or employee of the buyer or the seller.

In no case may any person charge or receive such a commission or fee on hides, kips or calfskins sold for his own account even though such person may have performed the receiving service or any other service for the buyer.

§ 1314.11 *Appendix A, maximum prices for domestic hides*—(a) *Packer classifications sold on a selected basis* [3].

Standard Present Trim, Tare Allowance and Delivery

	Price per lb., f. o. b. shipping point No. 1's	No. 2's
Native steers, heavy and light	$0.15½	$0.14½
Native steers, extreme light (23 to 48 lb.)	.15½	.14½
Heavy native cows (53 lb. and up)	.15½	.14½
Light native cows (less than 53 lbs.)	.15½	.14½
Butt branded steers	.14½	.13½
Texas steers, heavy and light	.14½	.13½
Texas steers, extreme light (23 to 48 lb.)	.15	.14
Colorado steers	.14	.13
Branded cows	.14½	.13½
Native bulls	.12	.11
Branded bulls	.11	.10

Packer classifications of hides which fail to meet established standards of trim, tare allowance or delivery shall be sold at a price at least 1¢ per pound less than the applicable maximum price set forth above.

Packer Classifications Sold on an Unselected Basis

The maximum prices for packer classifications of hides sold on an unselected basis, i. e., flat for No. 1's and No. 2's, shall be the applicable maximum prices for No. 2's set forth above.

(b) *Hides other than packer classifications sold on an unselected basis.* [1]

	Price per lb., f. o. b. shipping point Trimmed	Untrimmed [2]
Free of brand steers and cows	$0.15	$0.14
Branded steers and cows	.14	.13
Free of brand bulls	.11½	.10½
Branded bulls	.10½	.09½

Premium for Hides Other Than Packer Classifications Sold on a Selected Basis

A seller who does not grade his hides according to packer classifications but who permits selection to be made according to standards prevailing for hides of packer classifications and who allows a one cent per pound discount for No. 2's may charge a premium of one-half cent per pound over the maximum prices set forth in this paragraph (b) above.

Tare Allowance

A tare allowance of not less than 2% shall be allowed on all sales of hides other than packer classifications.

(c) *Pacific coast hides.*

	Price per lb., f. o. b. shipping point Trimmed	Untrimmed [2]
Native and branded steers and cows, (flat for No. 1's and No. 2's)	$0.13½	$0.12½
Native and branded bulls (flat for No. 1's and No. 2's)	.10	.09

[1] This affects §§ 10.1 (a), 10.2 (a) (2), 10.2 (x), 10.2 (y), 10.3 (a), 10.3 (b), 10.6 (a), 10.6 (c), 10.7 (b) (2), 10.10 (b) (5), wherein the name "Committee on Enrollment and Disbarment" occurs written in full.

[1] This affects §§ 11.2 (c), 11.10 (b) (2) and 11.10 (b) (7) wherein the name "Committee on Enrollment and Disbarment" occurs written in full.

[2] 6 F.R. 2909, 4736, 4820.

[1] Paragraphs (a) and (b) of Appendix A do not apply to hides originating in the Pacific Coast.

[2] The term "Untrimmed" as applied to hides, means hides without the standard head and tail trim prevailing on hides of packer classifications, in which the ears, ear butt fat and gristle, ox-lip, snouts and lower lips are trimmed off in the green state before salting and in which the tails are cut off to not more than eight inches in length.

Tare Allowance

A tare allowance of not less than two pounds tare per hide shall be allowed on all sales of Pacific Coast hides.

(d) *Hides or skins sold in mixed lots.* When hides or skins are sold in lots containing more than one type or grade of hides, kips or calfskins for which maximum prices are established by this Schedule, unless the quantity of each such type or grade is determined by actual inspection and separately priced at not exceeding the applicable maximum, the maximum price for the lot shall be the maximum price for that type or grade of hide or skin included in the lot which has the lowest established maximum price.

§ 1314.12 *Appendix B, maximum prices for domestic kips and calfskins*—(a) (1) *Packer calf and kipskins sold on a selected basis.*

No. 1 Selection, Standard Present Trim, Tare Allowance and Delivery

	Price per lb., f. o. b. shipping point
Chicago packer heavy northern (9½–15 lb.)	$0.27
Chicago packer lights (less than 9½ lb.)	.23½
Packer kips, No. 1 northern native (15–30 lb.)	.20
Branded kips (30 lb. and down)	.17½
Slunks, regular	[1] 1.10
Slunks, hairless	[1] .55

[1] Each, flat for No. 1's and No. 2's.

Tare Allowance for Packer Calf and Kipskins

A tare allowance of not less than one-half pound per skin for packer calf (except slunks) and three-fourths pound per skin for packer kip shall be allowed on all sales of packer calf and kipskins.

(2) *Chicago city calf and kipskins sold on a selected basis.*

No. 1 Selection, Standard Present Trim, Tare Allowance and Delivery

	Price per lb., f. o. b. shipping point
Chicago City (10 to 15 lb.)	$0.23
Chicago City (8 to 10 lb.)	.20½
Chicago City native kips (15 to 30 lb.)	.18
Chicago City branded kips (30 lb. and down)	.17

	Price per skin, f. o. b. shipping point
Chicago City (less than 8 lb.)	$1.43

(3) *New York City packer and collector calf and kipskins sold on a selected basis.*

No. 1 Selection, New York City Trim—Standard Tare Allowance and Delivery

	Price per skin, f. o. b. shipping point
New York packer (3 to 4 lb.)	$1.25
New York packer (4 to 5 lb.)	1.40
New York packer (5 to 7 lb.)	1.80
New York packer (7 to 9 lb.)	2.80
New York packer (9 to 12 lb.)	3.80
New York packer (12 to 17 lb.)	4.20
New York packer (17 lb. or more)	4.60
New York collector (3 to 4 lb.)	1.15
New York collector (4 to 5 lb.)	1.30
New York collector (5 to 7 lb.)	1.65
New York collector (7 to 9 lb.)	2.60
New York collector (9 to 12 lb.)	3.55
New York collector (12 to 17 lb.)	3.95
New York collector (17 lb. or more)	4.35

Calf and kipskins of the classifications set forth above which fail to meet established standards of trim, tare allowance or delivery for the type or grade sold, shall be sold at a price at least 2¢ per pound, or, when sold on a per skin basis, at least 20¢ per skin, less than the applicable maximum price set forth above.

Maximum prices for No. 2's. The maximum price for No. 2 calf and kipskins of the classifications set forth above shall not exceed the maximum price for each such classification reduced by a discount of 10%.

Maximum prices for skins not New York City trimmed. The maximum prices for calf and kipskins, other than Pacific Coast skins, which are not New York City trimmed, shall be the maximum prices established by this Schedule for Packer Calf and Kipskins, Chicago City Calf and Kipskins or Country Calf and Kipskins, whichever are applicable.

Maximum prices for skins sold on an unselected basis. The maximum prices for calfskins of the classifications set forth above sold on an unselected basis, i. e., flat for No. 1's and No. 2's, shall be the applicable maximum prices for No. 2's.

The maximum prices for kipskins of the classifications set forth above sold on an unselected basis, i. e., flat for No. 1's and No. 2's, shall be the applicable maximum prices for each such classification less 1¢ per pound.

When the quantity of No. 2's in any lot of skins sold is not determined by actual inspection or is based upon the buyer's or the seller's estimate thereof, the maximum price for the lot shall be the maximum price established by this Schedule for skins sold on an unselected basis.

(b) *Country calf and kipskins.*

	Price per lb., f. o. b. shipping point
Country calf (10 lb. and down)	[1] $0.16
Country calf (10 to 15 lb.)	[1] .18
Country kips (15 to 30 lb.)	[1] .16

(c) *Pacific coast calf and kipskins,*[2] *standard tare allowance and delivery.*

	Price per lb., f. o. b. shipping point
Pacific coast kips (15 lb. or more)	[1] $0.19¼
Pacific coast New York City trimmed kips (15 lb. or more)	[1] .21
Pacific coast trimmed calf (6 to 13 lb.)	[1] .26
Pacific coast trimmed calf (13 to 15 lb.)	[1] .23½

	Price per skin, f. o. b. shipping point
Pacific coast calf (less than 6 lb.)	[1] $1.25

[1] Flat for No. 1's and No. 2's.

[2] The maximum price of any calfskin originating in the Pacific Coast, but not Pacific Coast trimmed, shall not exceed 80% of the maximum price set forth above for Pacific Coast Trimmed Calf of corresponding weight except that (a) in the case of skins weighing less than six pounds, the maximum price of $1.25 per skin shall apply to both trimmed and untrimmed skins, and (b) New York City trimmed calfskins originating in the Pacific Coast weighing 15 pounds or less may be sold by the skin at prices not exceeding the maximum prices established above for New York Collector skins.

Pacific Coast Calf and Kipskins which fail to meet established standards of tare allowance or delivery shall be sold at a price at least 1¢ per pound less than the applicable maximum price set forth above.

(d) *Hides or skins sold in mixed lots.* When hides or skins are sold in lots containing more than one type or grade of hides, kips or calfskins for which maximum prices are established by this Schedule, unless the quantity of each such type or grade is determined by actual inspection and separately priced at not exceeding the applicable maximum, the maximum price for the lot shall be the maximum price for that type or grade of hide or skin included in the lot which has the lowest established maximum price.

Effective Date of this Amendment

This amendment shall become effective October 22, 1941: *Provided, however,* That firm commitments entered into prior to October 22, 1941, for the sale of hides, kips or calfskins at prices not exceeding the maximum prices established by Price Schedule No. 9, as heretofore amended, may be completed at contract prices, provided that all deliveries pursuant to such firm commitments are completed on or before December 22, 1941. (Executive Order Nos. 8734, 8875, 6 F.R. 1917, 4483)

Issued this 21st day of October 1941.

LEON HENDERSON,
Administrator.

[F. R. Doc. 41-7961; Filed, October 22, 1941; 10:41 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

CHAPTER I—INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 72 (Sub-No. 1)]

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 60—CLASSIFICATION OF EMPLOYEES AND SUBORDINATE OFFICIALS

In the Matter of Regulations Concerning the Class of Employees and Subordinate Officials To Be Included Within the Term "Employee" Under the Railway Labor Act—Ore Dock Foremen and Laborers

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 6th day of October, A. D. 1941.

It appearing, That on May 9, 1940, division 3 entered its report in the above entitled proceeding, and that on November 11, 1940, this case was reopened for reargument and reconsideration;

And it further appearing, That such reargument has been held and the Commission on the date hereof has made and filed a report on reconsideration containing its findings of fact and conclusions thereon, which said report and the report of May 9, 1940, are hereby

referred to and made a part of this order; [1]

It is ordered, That the orders heretofore issued by the Commission under authority of section 300 (5) of the Transportation Act, 1920, and the fifth paragraph of section 1 of the Railway Labor Act defining work as that of employees or subordinate officials, now in effect, be, and they are hereby, amended by adding the following:

§ 60.12d *Foreman, assistant foreman, and laborers on ore docks.* The work performed by the foreman, assistant foreman, and laborers on the ore dock of the Northern Pacific Railway Company at Superior, Wis., is defined as that of employees and subordinate officials. (Sec. 300, 41 Stat. 469, Sec. 1, 44 Stat. 577, 48 Stat. 1186; 45 U.S.C. 131, 151.)

By the Commission.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 41-7962; Filed, October 22, 1941; 10:50 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. B-37]

IN THE MATTER OF J. BRUNER, CODE MEMBER, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated August 30, 1941, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on September 23, 1941, by Bituminous Coal Producers Board for District No. 9, a District Board, complainant, with the Bituminous Coal Division alleging willful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on November 26, 1941, at 10 a. m., at a hearing room of the Bituminous Coal Division at the Daviess Circuit Court, Owensboro, Kentucky.

It is further ordered, That Charles S. Mitchell or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.-123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given, that answer to the complaint must be filed with the Bituminous Coal Division at its Washington office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified, that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above-named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows:

That the defendant, whose address is Hawesville, Kentucky, subsequent to September 30, 1940, sold substantial quantities of mine run coal produced at his Bruner Mine, Mine Index No. 261, to various purchasers whose names are unknown, at $1.50 per net ton f. o. b. said mine, whereas said coal is classified as Size Group No. 7 and priced at $1.60 per net ton f. o. b. said mine, as contained in the Schedule of Effective Minimum Prices for District No. 9 for Truck Shipments.

That the defendant, during the period from October 1, 1940 to August 30, 1941, sold substantial quantities of 1½" screenings produced at his Bruner Mine to various purchasers whose names are unknown at 75 cents per net ton f. o. b. the mine, whereas said coal is classified as Size Group No. 14 and priced at $1.10 per net ton f. o. b. said mine, as contained in the Schedule of Effective Minimum Prices for District No. 9 for Truck Shipments.

That the defendant, on or about December 2, 1940, sold one ton of 1½" screenings produced at his Bruner Mine, Mine Index No. 261, to Paul Barker, address unknown, at 50 cents per net ton f. o. b. said mine, whereas such coal is classified as Size Group No. 14 and priced at $1.10 per net ton f. o. b. said mine as contained in the Schedule of Effective Minimum Prices for District No. 9 for Truck Shipments.

That the defendant, on or about December 24, 1940, sold to Bob Algood, address unknown, two tons of 1½" screenings at 50 cents per net ton f. o. b. said mine, whereas such coal is classified as Size Group No. 14 and priced at $1.10 per net ton f. o. b. said mine, as contained in the Schedule of Effective Minimum Prices for District No. 9 for Truck Shipments.

Dated: October 20, 1941.

[SEAL] H. A. GRAY, *Director.*

[F. R. Doc. 41-7938; Filed, October 22, 1941; 10:19 a. m.]

[Docket No. B-36]

IN THE MATTER OF ARTHUR FOX AND ELBERT ENGLE, A PARTNERSHIP, CODE MEMBER, DEFENDANTS

NOTICE OF AND ORDER FOR HEARING

A complaint dated September 13, 1941, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on September 23, 1941, by Bituminous Coal Producers' Board for District No. 8, a district board, complainant, with the Bituminous Coal Division alleging willful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on December 9, 1941, at 10 a. m., at a hearing room of the Bituminous Coal Division at the U. S. Court Room, Federal Building, London, Kentucky.

It is further ordered, That Charles S. Mitchell or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings

[1] Filed as part of the original document.

of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given, that answer to the complaint must be filed with the Bituminous Coal Division at its Washington office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified, that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above-named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows:

(1) The defendant, whose address is Wilton, Kentucky, sold between April 20, 1941, and May 1, 1941, both dates inclusive, to J. W. Faulkner, Barboursville, Kentucky, 100 tons of high volatile 2'' and under slack coal produced at defendant's Fox Mine, Mine Index No. 3285, located at or near Wilton, Knox County, Kentucky, at a price of 50 cents per net ton f. o. b. said mine, whereas such coal is classified as Size Group No. 7 and priced at $1.55 per net ton f. o. b. said mine in the Schedule of Effective Minimum Prices for District No. 8, Truck Shipments.

(2) Sold on or about May 3, 1941, to J. W. Faulkner, Barboursville, Kentucky, 55 tons of high volatile lump coal produced at said mine at a price of $1.50 per net ton f. o. b. said mine, whereas such coal is classified as Size Group No. 1 and priced at $2.55 per net ton f. o. b. said mine in the Schedule of Effective Minimum Prices for District No. 8, Truck Shipments.

Dated: October 20, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7939; Filed, October 22, 1941; 10:19 a. m.]

[Docket No. A-113]

PETITION OF DISTRICT BOARD NO. 8 FOR RECLASSIFICATION OF CERTAIN COALS PRODUCED BY ALLBURN COLLIERIES COMPANY PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

NOTICE OF AND ORDER FOR HEARING

The above-entitled matter by an Order of the Director dated December 13, 1940 was scheduled for a hearing on January 21, 1941 at 10 o'clock in the forenoon of that day, in a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. before Charles S. Mitchell, examiner. The examiner convened the hearing and then on motion of Counsel for District Board 8, continued the hearing until further Order of the Director.

The Director deeming that the matter should now be scheduled for hearing;

Now, therefore, it is ordered, That a hearing be held in the above-entitled matter on November 18, 1941, at 10 a. m., at the place heretofore designated, and before the officer previously designated to preside at such hearing.

Dated: October 20, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7940; Filed, October 22, 1941; 10:19 a. m.]

[Docket No. A-661]

PETITION OF SHELBY ELKHORN COAL COMPANY, A PRODUCER IN DISTRICT NO. 8, FOR A CHANGE IN MINIMUM PRICES AND FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES IN ADDITIONAL SIZE GROUPS PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

NOTICE OF AND ORDER FOR HEARING

The above-entitled matter, by an Order of the Director, dated March 27, 1941, was scheduled for a hearing on April 10, 1941, at 10:00 in the forenoon of that day in a hearing room of the Bituminous Coal Division, 734 15th Street NW., Washington, D. C., before Charles S. Mitchell, Examiner. The Examiner convened the hearing and then on motion of Counsel for the Division continued the hearing until further Order of the Director.

The Director deeming that the matter should now be scheduled for hearing;

Now, therefore, it is ordered, That a hearing be held in the above-entitled matter on November 18, 1941, at 10:00 a. m. at the place heretofore designated and before the officer previously designated to preside at such hearing.

Dated: October 20, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7941; Filed, October 22, 1941; 10:19 a. m.]

[Docket No. B-69]

IN THE MATTER OF CLAUDE E. TAYLOR, CODE MEMBER, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated October 2, 1941, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on October 4, 1941, by Bituminous Coal Producers Board for District No. 8, a district board, complainant, with the Bituminous Coal Division alleging wilful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on December 16, 1941, at 10 a. m. at a hearing room of the Bituminous Coal Division at the Court Room, City Hall, Middlesboro, Kentucky.

It is further ordered, That Charles S. Mitchell or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to Sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given that answer to the complaint must be filed with the Bi-

tuminous Coal Division at its Washington Office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging wilful violation by the above named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows: By selling on or about April 17, 1941 to Golie Shoffner and H. L. Matlock of Middlesboro, Kentucky, approximately 226.4 tons of 3/8" x 0 coal, Size Group 8, produced at the defendant's mine, Mine Index No. 1556, District No. 8, at a price of approximately 22 cents per net ton f. o. b. the mine, whereas the applicable minimum price f. o. b. the mine established for such coal is $1.50 per net ton as contained in the Schedules of Effective Minimum Prices for District No. 8, for Truck Shipments.

Dated: October 20, 1941.

[SEAL] H. A. GRAY, *Director.*

[F. R. Doc. 41-7942; Filed, October 22, 1941; 10:19 a. m.]

[Docket No. B-68]

IN THE MATTER OF HERBERT AYERS AND WILLIAM S. YORK, A PARTNERSHIP, CODE MEMBER, DEFENDANTS

NOTICE OF AND ORDER FOR HEARING

A complaint dated October 2, 1941, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on October 4, 1941, by Bituminous Coal Producers Board for District No. 8, a district board, complainant, with the Bituminous Coal Division alleging wilful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on December 17, 1941, at 10 a. m. at a hearing room of the Bituminous Coal Division at the Court Room, City Hall, Middlesboro, Kentucky.

It is further ordered, That Charles S. Mitchell or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or by any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendants and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given that answer to the complaint must be filed with the Bituminous Coal Division at its Washington Office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging wilful violation by the above named defendants of the Bituminous Coal Code or rules and regulations thereunder as follows: By selling on or about May 30, 1941, to Golie Shoffner and H. L. Matlock of Middlesboro, Kentucky, approximately 178.5 tons 3/8" x 0 coal, Size Group 8, produced at defendants' mine, Mine Index No. 3561, District No. 8, at a price of approximately 39 cents per net ton f. o. b. said mine, whereas the applicable minimum price f. o. b. the mine established for such coal is $1.50 per net ton as contained in the Schedule of Effective Minimum Prices for District No. 8, for Truck Shipments.

Dated: October 20, 1941.

[SEAL] H. A. GRAY, *Director.*

[F. R. Doc. 41-7943; Filed, October 22, 1941; 10:20 a. m.]

[Docket No. B-70]

IN THE MATTER OF JAKE ABBOTT, CODE MEMBER, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated October 2, 1941, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on October 4, 1941, by Bituminous Coal Producers Board for District No. 8, a district board, complainant, with the Bituminous Coal Division alleging wilful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on December 15, 1941, at 10 a m. at a hearing room of the Bituminous Coal Division at the Court Room, City Hall, Middlesboro, Kentucky.

It is further ordered, That Charles S. Mitchell or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given that answer to the complaint must be filed with the Bituminous Coal Division at its Washington Office or with any one of the statistical bureaus of the Division, within

twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging wilful violation by the above named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows: By selling on or about June 2, 1941, to Golie Shoffner and H. L. Matlock of Middlesboro, Kentucky, approximately 177.5 tons of 3/8" x 0 coal, Size Group 8, produced at the defendant's mine, Mine Index No. 1492, District No. 8, at a price of approximately 57 cents per net ton f. o. b. said mine, whereas the applicable minimum price f. o. b. the mine established for such coal is $1.50 per net ton as contained in the Schedule of Effective Minimum Prices for District No. 8, for Truck Shipments.

Dated: October 20, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7944; Filed, October 22, 1941; 10:20 a. m.]

[Docket No. 1872-FD]

IN THE MATTER OF THE APPLICATIONS OF WHEELING VALLEY COAL CORPORATION FOR PERMISSION TO PAY, UNDER CERTAIN SALES AGENCY CONTRACTS, SALES AGENTS' COMMISSIONS IN EXCESS OF THE AMOUNTS PRESCRIBED AS MAXIMUM DISTRIBUTORS' DISCOUNTS, AS PROVIDED BY RULE 13, SECTION II OF THE MARKETING RULES AND REGULATIONS

NOTICE OF AND ORDER FOR HEARING

Applications, pursuant to the provisions of Rule 13, Section II of the Marketing Rules and Regulations, having been duly filed with this Division by the above-named party, and

The said applicant, a code member in District No. 6, having requested, by letter, dated September 22, 1941, that it be afforded a hearing on said applications;

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on December 1, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW, Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That D. C. McCurtain or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said petitioner and to any other person who may have an interest in these proceedings. Any person desiring to be heard at such hearing shall file a notice to that effect with the Bituminous Coal Division on or before November 25, 1941, setting forth therein the nature of his interest and a concise statement of the matter or matters which he intends to present.

All persons are hereby notified that the hearing in the above entitled matter and any orders entered therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners, or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to sales agency contracts which provide for the payment of sales agency commissions in excess of the amounts prescribed in Docket No. 12, as maximum discounts from the minimum prices which may be allowed to registered distributors, which contracts are between the applicant and each of the following sales agents, respectively:

Pocahontas Coal Corporation,
C. M. Cross Coal Sales Company,
Davis Wilson Coal Company,
Milnes Coal Co.,
Delaware Fuel Corporation,
Scotch Anthracite Coal Company,
Millar Coal Company.

Dated: October 20, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7945; Filed, October 22, 1941; 10:20 a. m.]

[Docket No. A-1079]

PETITION OF DISTRICT BOARD NO. 10 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 10 FOR RAIL SHIPMENT

NOTICE OF AND ORDER FOR HEARING

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

It is ordered that a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on November 24, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That W. A. Shipman or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before November 20, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary

corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition of District Board No. 10 for the establishment of price classifications and minimum prices for the coals of Mine Index Nos. 1171, 1183, 1176, 1178, 1179, 1305, 1184, 1216, 1185, 1239, 1188, 1190, 1232, 1192, 1221, 1193, 1195, 1199, 1200, 1201, 1412, 1203, 1367, 1204, 1205, 1212, 1227, 1218, 1222, 1223, 1202, 1226, 1233, 1414, 1234, 1238 and 1241 in District No. 10 for rail shipment, via the Illinois Central and the Missouri-Pacific Railroads from Marion, Illinois.

The above-mentioned Mines are planning to erect a common preparation plant and loading facilities to be operated by the McLaren Fuel Company at Marion, Illinois, and to ship their coals thence by the above-mentioned Railroads. Price classifications and minimum prices are sought for coals in Size Groups 13 and 14 to be shipped as coals prepared at the McLaren preparation plant, and the Director is of the opinion that no temporary prices should be granted for such coals without a hearing.

Dated: October 20, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7946; Filed, October 22, 1941, 10:20 a. m.]

[Docket No. B-53]

IN THE MATTER OF CENTRAL STATES FUEL CO. (L. T. MCNERNEY), REGISTERED DISTRIBUTOR, REGISTRATION NO. 6296, RESPONDENT

NOTICE OF AND ORDER FOR HEARING

1. The Bituminous Coal Division (the "Division") finds it necessary for the proper administration of the Bituminous Coal Act of 1937 (the "Act") to determine

(a) whether or not the respondent in the above-entitled matter, Central States Fuel Co. (L. T. McNerney), Registered Distributor, Registration No. 6296, whose address is 2634 Albion Street, Toledo, Ohio, has violated any provisions of the Act, the Marketing Rules and Regulations, Rules and Regulations for Registration of Distributors, and the agreement ("Distributor's Agreement"), dated November 13, 1939, executed by the respondent, pursuant to Order of the National Bituminous Coal Commission, dated March 24, 1939, in General Docket No. 12, which was adopted as an Order of the Division on July 1, 1939, or any orders or regulations of the Division; and

(b) whether or not the registration of said distributor should be revoked or suspended or other appropriate penalties be imposed;

and for said purposes gives notice that the Division has information to the effect that:

2. Said respondent is owned and operated by L. T. McNerney as sole proprietor, at 2634 Albion Street, Toledo, Ohio;

3. Said respondent, during the period from October 1, 1940 to March 8, 1941, both dates inclusive, purchased approximately 2675.1 tons of coal from various code member producers, accepted and retained a distributor's discount thereon and resold such coal to Hi-Carbon Fuel Co., a retailer located at 2634 Albion Street, Toledo, Ohio;

4. Said Hi-Carbon Fuel Co. is a partnership formed in August 1940 and is composed of Clyde C. Webb and the said L. T. McNerney, who owned the said partnership in the following proportion: L. T. McNerney, 65%, Clyde C. Webb, 35%;

5. The purchase and resale of said coal by said respondent, and the acceptance and retention by said respondent of a distributor's discount thereon, as stated herein constitutes:

(a) an acceptance of a distributor's discount on transactions entered into between the distributor and his vendee primarily for the purpose of unjustly enriching the distributor, in violation of paragraph (g) of his Distributor's Agreement;

(b) an acceptance by said respondent of a distributor's discount on coal purchased by said distributor for retailing by him, in violation of Section 304.19 (a) of the Rules and Regulations for Registration of Distributors;

(c) accepting and retaining a distributor's discount where coal is resold to any person who owns such distributor, and who financially or otherwise controls such distributor, in violation of paragraph (h) of his Distributor's Agreement; and

(d) an acceptance by said respondent of a distributor's discount on coal purchased by said respondent for resale to a person who owns such distributor or who financially or otherwise controls such distributor, in violation of § 304.19 (c) of the Rules and Regulations of Distributors;

(e) a violation of Section 4 II (i) 12 of the Act and Rule 12 of Section XIII of the Marketing Rules and Regulations and paragraphs (c) and (e) of his Distributor's Agreement, in that respondent was in fact or in effect an agency or instrumentality of Hi-Carbon Fuel Co., a retailer, in the purchase of said coal.

It is, therefore, ordered, That a hearing pursuant to § 304.14 of the Rules and Regulations for the Registration of Distributors, to determine whether the registration of said distributor should be revoked or suspended, or other appropriate penalties be imposed, be held on November 21, 1941, at 10 a. m. in the forenoon in a hearing room of the Bituminous Coal Division at the Commodore Perry Hotel, Toledo, Ohio.

It is further ordered, That W. A. Cuff or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said respondent, and to all other parties herein and to all persons and entities having an interest in such proceeding.

Notice is hereby given that answer to the charges contained herein must be filed with the Bituminous Coal Division at its Washington Office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the respondent; and that any respondent failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted said charges and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged herein, other matters incidental and related thereto, whether raised by amendment, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

Dated: October 20, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7947; Filed, October 22, 1941; 10:21 a. m.]

[Docket No. B-18]

IN THE MATTER OF HARTFORD COAL COMPANY, DEFENDANT

ORDER CHANGING PLACE OF HEARING

The above-entitled matter having been heretofore scheduled for hearing at 10 o'clock in the forenoon of November 25, 1941 at a hearing room of the Bituminous Coal Division, in the Circuit Court, Madisonville, Kentucky; and

The Director deeming it advisable that said place of hearing should be changed;

Now, therefore, it is ordered, That the hearing in the above-entitled matter be changed from the Circuit Court at Madisonville, Kentucky to a hearing room of the Bituminous Coal Division at Daviess Circuit Court, Owensboro, Kentucky, at the time heretofore designated and be-

fore the officer previously designated to preside at the said hearing.

Dated: October 20, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7948; Filed, October 22, 1941; 10:21 a. m.]

[Docket No. 1740-FD]

IN THE MATTER OF ROBINSON COAL COMPANY, DEFENDANT

ORDER DISMISSING COMPLAINT

This proceeding was instituted upon a complaint filed with the Bituminous Coal Division, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, by District Board 15, alleging wilful violation by the Robinson Coal Company, a code member producer in District 15, the defendant, of the Bituminous Coal Code or of rules and regulations thereunder.

The defendant filed its answer, denying that it had wilfully violated the Code and requesting that the complaint be dismissed without prejudice.

Pursuant to an Order of the Director and after due notice to interested persons, a hearing in this matter was held on September 11, 1941, before a duly designated Examiner of the Division at a hearing room thereof in Kansas City, Missouri.

At the hearing District Board 15 moved for leave to withdraw its complaint and no evidence was presented in support of the allegations of said complaint.

It appearing to the undersigned that the complaint should be dismissed without prejudice;

Now, therefore, it is ordered, That the complaint filed herein be and it hereby is dismissed without prejudice.

Dated: October 21, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7949; Filed, October 22, 1941; 10:21 a. m.]

[Docket No. 1669-FD]

IN THE MATTER OF SMITH BROTHERS COAL COMPANY, A PARTNERSHIP, DEFENDANT

ORDER REVOKING CODE MEMBERSHIP

A complaint having been filed with the Bituminous Coal Division on April 18, 1941, by the Bituminous Coal Producers' Board for District No. 12, complainant, pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, alleging the Smith Brothers Coal Company, a partnership, defendant, willfully violated the Bituminous Coal Code and regulations thereunder, as follows:

That the defendant sold to George Pope or to the Coal Market Coal Company, during the period October 1, 1940 to March 11, 1941, from 250 to 300 tons of screenings produced at its Mine No. 463, at $1.60 per ton delivered to the purchaser at Hamilton, the defendant refunding 50¢ per ton delivery costs and a 10¢ per ton discount to the purchaser, whereas the effective minimum price for such coal is $1.60 per ton f. o. b. the mine; [1]

Pursuant to Orders of the Director, and after notice to all interested persons, a hearing having been held in this matter on September 15, 1941, before a duly designated Examiner of the Bituminous Coal Division in Des Moines, Iowa, at which all interested parties were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard;

Appearances having been entered on behalf of the complainant and the defendant;

All interested persons having waived the preparation and filing of a report by the Examiner and a record of the proceeding thereupon having been submitted to the undersigned;

The undersigned having made Findings of Fact, Conclusions of Law, and having rendered an Opinion, which are filed herewith; [2]

Now, therefore, it is ordered, That pursuant to section 5 (b) of the Act the code membership of the defendant, Smith Brothers Coal Company, a partnership composed of A. J. Smith and John Smith, be and it hereby is revoked and cancelled; and

It is further ordered, That prior to reinstatement of the defendant, Smith Brothers Coal Company, a partnership, or any of the partners thereof, to membership in the Code, the defendant or any of the individual partners shall pay to the United States a tax in the amount of $516.30, as provided in section 5 (c) of the Bituminous Coal Act of 1937.

Dated: October 21, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7950; Filed, October 22, 1941; 10:21 a. m.]

[Docket No. A-1050]

PETITION OF DISTRICT BOARD NO. 1 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT No. 1

[Docket No. A-1050, Part II]

PETITION OF DISTRICT BOARD NO. 1 FOR THE ESTABLISHMENT OF ADDITIONAL RAIL LOADING POINTS FOR THE COALS OF MINE INDEX NOS. 1417, 604 AND 721 AND FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF MINE INDEX NOS. 1023, 919, 870, 860, 2619 AND 2093 IN DISTRICT NO. 1 FOR ALL SHIPMENTS EXCEPT TRUCK

MEMORANDUM OPINION AND ORDER SEVERING DOCKET NO. A-1050 PART II FROM DOCKET NO. A-1050, GRANTING TEMPORARY RELIEF IN DOCKET NO. A-1050 PART II AND NOTICE OF AND ORDER FOR HEARING IN DOCKET NO. A-1050 PART II

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, was filed with this Division in Docket No. A-1050, requesting the establishment of price classifications and minimum prices for the coals of certain mines in District No. 1.

As indicated in an Order issued in Docket No. A-1050, a reasonable showing of necessity has been made for the granting of the relief prayed for by petitioner, except with respect to the establishment of additional rail loading points for the coals of Mine Index Nos. 1417, 604, and 721 and the establishment of price classifications and minimum prices for the coals of Mine Index Nos. 1023, 919, 870, 860, 2619 and 2093 for all shipments except truck.

While it appears that a reasonable showing of necessity has been made for the granting of temporary relief in the form of price classifications and minimum prices for the coals of Mine Index Nos. 1023, 919, 870, 860, 2619 and 2093 for all shipments except truck, as prayed for by the petitioner, the Director is of the opinion that the original petitioner has not set forth sufficient facts to warrant the establishment of additional rail loading points for the coals of Mine Index Nos. 1417, 604, and 721, or of permanent price classifications and minimum prices for the coals of Mine Index Nos. 1023, 919, 870, 860, 2619 and 2093, for all shipments except truck without a hearing;

Now, therefore, it is ordered, That the portion of Docket No. A-1050 relating to the establishment of additional rail loading points for the coals of Mine Index Nos. 1417, 604 and 721, and to the establishment of price classifications and minimum prices for the coals of Mine Index Nos. 1023, 919, 870, 860, 2619 and 2093 for all shipments except truck, be, and it hereby is, severed from the remainder of Docket No. A-1050, and designated as Docket No. A-1050 Part II.

It is further ordered, That a hearing in Docket No. A-1050 Part II under the applicable provisions of said Act and the rules of the Division be held on November 12, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Charles O. Fowler or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby

[1] The complaint was amended at the hearing to include the tonnage sold during the period October 8, 1940 to April 23, 1941 and to allege that the coal was sold at a price of $1.00 per ton f. o. b. the mine.

[2] Not filed with the original document.

authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before November 7, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition of District Board No. 1 for the establishment of additional rail loading points for the coals of Mine Index Nos. 1417, 604 and 721, and for the establishment of price classifications and minimum prices for the coals of Mine Index Nos. 1023, 919, 870, 860, 2619 and 2093 in District No. 1, for all shipments except truck.

It is further ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, the Schedule of Effective Minimum Prices for District No. 1, For All Shipments Except Truck, is supplemented to include the price classifications and minimum prices set forth in the schedule marked "Temporary Supplement R," annexed hereto and hereby made a part hereof.

Notice is hereby given that all applications to stay, terminate, or modify the temporary relief granted herein may be filed pursuant to the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: October 8, 1941.

[SEAL] H. A. GRAY,
Director.

TEMPORARY SUPPLEMENT R

NOTE: The material contained in this supplement is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Price Schedule No. 1 for this District and supplements thereto.

[Alphabetical listing of code members having railway loading facilities, showing price classification by size group Nos.]

Mine index No.	Code member	Mine name	Sub. dist. No.	Seal	Shipping point	Railroad	Freight origin group No.	1	2	3	4	5
1023	Armstrong, Paul J.	Armstrong	6	E	Juneau, Pa.	B. & O.	112	(†)	(†)	F	(†)	(†)
919	Bailey, Robert	Bailey #4	8	D & E	Morrisdale, Pa.	N. Y. C.	44	(†)	(†)	D	(†)	(†)
870	Card, Grant	Card #1	2	B	Sabula, Pa.	P. R. R.	120	H	(†)	H	J	J
860	Reiter, V. M.	Laurel Run #3	2	B	Penfield, Pa.	P. R. R.	120	(†)	(†)	H	(†)	(†)
2619	Staley, James H.	Staley	6	D	Anita, Pa.	P. R. R.	50	(†)	(†)	E	E	E
2093	Stear Bros. (C. M. Stear).	Dennison	6	D	Sprankles Mills, Pa.	P. & S.	119	(†)	(†)	E	E	E

†Indicates no classifications effective for these size groups.

[F. R. Doc. 41-7952; Filed, October 22, 1941; 10:22 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Notice is hereby given that special Certificates authorizing the employment of learners at hourly wages lower than the minimum rate applicable under section 6 of the Act are issued under section 14 thereof and § 522.5 (b) of the Regulations issued thereunder. (August 16, 1940, 5 F. R. 2862) to the employers listed below effective October 23, 1941.

The employment of learners under these Certificates is limited to the terms and conditions as designated opposite the employer's name. These Certificates are issued upon the employers' representations that experienced workers for the learner occupations are not available for employment and that they are actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment. The Certificates may be cancelled in the manner provided for in the Regulations and as indicated on the Certificate. Any person aggrieved by the issuance of these Certificates may seek a review of reconsideration thereof.

NAME, AND ADDRESS OF FIRM, PRODUCT, NUMBER OF LEARNERS LEARNING PERIOD, LEARNER WAGE, LEARNER OCCUPATIONS, EXPIRATION DATE

Kansas Bank Note Company, Fifth and Jefferson Streets, Fredonia, Kansas; Printing and lithographing of counter bank checks, check books, deposit slips, coupon books, etc.; 5 learners; 6 weeks for any one learner; 30 cents per hour; Bindery Operator; December 18, 1941.

Keener Manufacturing Company, Lancaster Avenue, Lancaster, Pennsylvania; Printing and making of paper and cardboard tags; 5 learners; 4 weeks for any one learner; 30 cents per hour; Packer, Stringer Operator; January 1, 1942.

Metro Envelope Corporation, 409 Lafayette Street, New York, New York; Envelopes; 2 learners; 4 weeks for any one learner; 30 cents per hour; Envelope Machine Operator; December 4, 1941.

Outlook Envelope Company, 1001 W. Washington Street, Chicago, Illinois; Envelopes; 5 learners; 4 weeks for any one learner; 30 cents per hour; Folding Machine Operator, Cutting Machine Operator, Hand Folder; December 4, 1941.

F. J. Schleicher Paper Box Company, 1811 Chouteau Avenue, St. Louis, Missouri; Set-up paper boxes, mostly plain and fancy candy boxes; 10 percent; 8 weeks (320 hours) and 6 weeks (240 hours) respectively for any one learner; 30 cents per hour; Fancy hand work on custom built machinery producing fancy and odd shape boxes; Basic hand and machine (standard equipment) box-making operations; (Cutting, Scoring & Slitting are excluded); April 23, 1942.

Signed at Washington, D. C., this 22nd day of October 1941.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 41-7968; Filed, October 22, 1941; 11:59 a. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under section 6 of the Act are issued under section 14 thereof, Part 522 of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) and the Determination and Order or Regulation listed below and published in the FEDERAL REGISTER as here stated.

Apparel Learner Regulations, September 7, 1940 (5 F.R. 3591).

Artificial Flowers and Feathers Learner Regulations, October 24, 1940 (5 F.R. 4203).

Glove Findings and Determination of February 20, 1940, as amended by Administrative Order of September 20, 1940 (5 F.R. 3748).

Hosiery Learner Regulations, September 4, 1940 (5 F.R. 3530).

Independent Telephone Learner Regulations, September 27, 1940 (5 F.R. 3829).

Knitted Wear Learner Regulations, October 10, 1940 (5 F.R. 3982).

Millinery Learner Regulations, Custom Made and Popular Priced, August 29, 1940 (5 F.R. 3393).

Textile Learner Regulations, May 16, 1941 (6 F.R. 2446).

Woolen Learner Regulations, October 30, 1940 (5 F.R. 4302).

The employment of learners under these Certificates is limited to the terms and conditions as to the occupations, learning periods, minimum wage rates, et cetera, specified in the Determination and Order or Regulation for the industry designated above and indicated opposite the employer's name. These Certificates become effective October 23, 1941. The Certificates may be cancelled in the manner provided in the Regulations and as indicated in the Certificates. Any person aggrieved by the issuance of any of these Certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS AND EXPIRATION DATE

The following certificates at the rate of 75% of the applicable hourly minimum wage.

Apparel

A & L Brand, Inc., 55 Minor Street, New Haven, Connecticut; Children's Dresses; 10 percent; October 23, 1942.

Altoona Factories, 1715 Eleventh Avenue, Altoona, Pennsylvania; Hunting Coats, Pants, Breeches, Work Trousers, Coveralls and Overalls; 10 percent; October 23, 1942.

Aurora Corset Company, 603 South LaSalle Street, Aurora, Illinois; Corsets & Brassiere-Girdles, Brassieres; 10 learners; October 23, 1942.

B & B Manufacturing Company, Inc., East Clinton Street, Newton, New Jersey; Ladies' Wash Frocks, Cotton Housecoats; 6 learners; October 23, 1942.

Blauer Manufacturing Company, Inc., 169 Bridge Street, Cambridge, Massachusetts; Coats; 5 learners; October 23, 1942.

Borman Sportswear, Inc., 21 E. Main Street, Johnstown, New York; Leather and Sheeplined Jackets, Sportswear, Wool and Gaberdine Jackets, Poplin Jackets; 5 learners; October 23, 1942.

Boulevard Frocks, Inc., 510 First Avenue, North, Minneapolis, Minnesota; Cotton and Rayon Dresses, Housecoats, Smocks; 10 percent; October 23, 1942.

Brand Brothers, Inc., 55 Minor Street, New Haven, Connecticut; Children's Dresses; 10 percent; October 23, 1942.

Cape Cod Shirt Company, 69 Alden Street, Fall River, Massachusetts; Men's Cotton Shirts; 10 percent; October 23, 1942.

Chic Manufacturing Company, 1001 South Adams Street, Peoria, Illinois; Cotton Wash Dresses; 10 percent; October 23, 1942.

A. Cohen Brassieres, Inc., 395 Fourth Avenue, New York, New York; Corsets & Brassieres; 10 percent; February 5, 1942.

Danville Sportwear Company, Inc., 328 Ferry Street, Danville, Pennsylvania; Cotton Sportswear; 10 percent; October 23, 1942.

The Flossie Dress Company, 795 Atlantic Street, Stamford, Connecticut; Children's Dresses; 10 percent; October 23, 1942.

Gail Carnogy Frocks Corporation, 146 North 13th Street, Philadelphia, Pennsylvania; Ladies' Dresses; 3 learners; October 23, 1942.

Gopher Sportswear Company, 22 North Third Street, Minneapolis, Minnesota; Dresses; 8 learners; October 23, 1942.

Harles and Company, 552 East Market Street, Alliance, Ohio; Dresses and Shirts; 10 percent; October 23, 1942.

Junior Deb Company, 120 Harrison Avenue, Boston, Massachusetts; Sportswear; 5 learners; October 23, 1942.

Katz Underwear Company, 6th Street, Honesdale, Pennsylvania; Ladies' Nightgowns, Pajamas and Slips; 10 percent; October 23, 1942.

Kaylon, Inc., 5 North Haven Street, Baltimore, Maryland; Men's & Girls' Pajamas; 10 percent; October 23, 1942.

Kops Brothers, Inc., 101st Street and Rockaway Boulevard, Ozone Park, Long Island, New York; Corsets, Combinations, Brassieres; 10 percent; October 23, 1942.

S. Liebovitz and Sons, East Seminary Street, Mercersburg, Pennsylvania; Men's Shirts; 10 percent; October 23, 1942.

R. Lowenbaum Manufacturing Company, Sparta, Illinois; Cotton and Rayon Dresses; 10 percent; October 23, 1942.

Lynchburg Garment Company, 14th and Kemper Street, Lynchburg, Virginia; Shirts; 10 learners; October 23, 1942.

MacSmith Garment Company, Inc., 28th Street, Gulfport, Mississippi; Men's Cotton Dress Shirts; 10 percent; October 23, 1942.

Nature's Rival Company, Inc., 802 East King Street, Garrett, Indiana; Corsets and Foundation Garments; 10 percent; October 23, 1942.

M. Nirenberg Sons, Inc., 750 Second Avenue, N. Troy, New York; Shirts; 10 percent; October 23, 1942.

Perfection Garment Company, Inc., First Avenue, Ranson, West Virginia; House Dresses; 10 percent; October 23, 1942. (This certificate replaces one issued bearing expiration date of March 10, 1942.)

Perfection Garment Company, Martinsburg, West Virginia; Dresses; 10 percent; October 23, 1942.

R. F. Pool Manufacturing Company, 104 North Washington Street, Dallas, Texas; Children's Clothing, Girls' Sportswear; 5 learners; October 23, 1942.

Porter Manufacturing Company, 25 French Street, Stoughton, Massachusetts; Skirts; 4 learners; October 23, 1942.

Red Lion Manufacturing Company, 224 First Avenue, Red Lion, Pennsylvania; Ladies' Pajamas, Children's Dresses, Ladies' Sportswear; 10 learners; October 23, 1942.

Rice Stix Factory No. 3, 21st and Main Streets, Blytheville, Arkansas; Shirts; 10 percent; October 23, 1942.

Rice Stix Factory No. 25, First and South A Streets, Farmington, Missouri; Shirts; 10 percent; October 23, 1942.

Rice Stix Dry Goods Company, St. James, Missouri; Dresses; 10 percent; October 23, 1942.

Rice Stix Dry Goods Company, Lebanon, Missouri; Overalls, Coats, Pants (100% Cotton Fabrics), Playsuits; 10 percent; October 23, 1942.

Rice Stix Dry Goods Company, Division & Wall, Bonne Terre, Missouri; Shirts; 10 percent; October 23, 1942.

Sackman Brothers Company, Telford, Pennsylvania; Children's Play Clothes; 10 percent; October 23, 1942.

The Schreiber Wallach Company, 1239 West 9th Street, Cleveland, Ohio; Dresses; 10 percent; October 23, 1942.

Shippensburg Pants Company, Inc., Shippensburg, Pennsylvania; Single Pants; 10 percent; October 23, 1942.

Slipco, 5 Bridge Street, Shelton, Connecticut; Ladies' Undergarments; 10 percent; October 20, 1942. (This certificate effective October 20, 1941, and omitted from REGISTER of that date).

Smith Brothers Manufacturing Company, 204 North Fourth Street, St. Joseph, Missouri; Overalls, Work Pants; 10 percent; October 23, 1942.

Charles Smithline Underwear Company, 248 Broad Avenue, Palisades Park, New Jersey; Ladies' Underwear; 10 learners; October 23, 1942.

E. H. South Company, Bethel, Ohio; Men's Single Pants; 4 learners; October 23, 1942.

Standard Overall Manufacturing Company, 301 North Water Street, Milwaukee, Wisconsin; Overalls; 6 learners; October 23, 1942.

Stegman Skirt Company, 32 East Georgia Street, Indianapolis, Indiana; Dresses; 1 learner; April 23, 1942.

J. H. Stern Garment Company, Seven Valleys, Pennsylvania; Contractor of Children's Dresses; 6 learners; October 23, 1942.

Stoughton Garment Manufacturing Company, 20 Perry Street, Stoughton, Massachusetts; Rainwear; 2 learners; October 23, 1942.

David Strain Company, Inc., Canal Street, Philmont, New York; Nightgowns and Slips; 10 percent; October 23, 1942.

Sun Valley Manufacturing Company, 166 Essex Street, Boston, Massachusetts; Sportswear, Windbreaker Jackets; 22 learners; February 5, 1942.

Teitz Brothers, 7 First Avenue, Raritan, New Jersey; Trousers; 10 percent; October 23, 1942.

Union Underwear Company, Inc., Frankfort, Kentucky; Men's & Boys' Woven Underwear; 5 percent; October 23, 1942.

United Shirt & Blouse Company, Inc., 84 Center Street, Shelton, Connecticut; Men's Shirts, Boys' Shirts; Ladies' Blouses; 10 percent; October 23, 1942.

Wilson Brothers, 1008 West Sample Street, South Bend, Indiana; Shirts; 10 percent; October 23, 1942.

The Hercules Trouser Company, Hillsboro, Ohio; Men's & Boys' Single Pants; 100 learners; April 16, 1942. (This certificate replaces one issued bearing the expiration date of December 15, 1941.)

The Hercules Trouser Company, Hillsboro, Ohio; Men's & Boys' Single Pants; 10 percent; October 23, 1942. (This certificate replaces one issued bearing expiration date of August 18, 1942.)

Milberg and Milberg, Inc., Diller Avenue, New Holland, Pennsylvania; Ladies' Slips and Gowns; 10 percent; October 23, 1942.

Gloves

Ray Brothers Glove Company, Inc., 1701 North Ashland Avenue, Chicago, Illinois; Leather Dress Gloves; 10 percent; April 23, 1942. (This certificate replaces ones bearing expiration dates of November 5, 1941 and November 8, 1941.)

Mr. Leon F. Swears, 111–113 N. Perry Street, Johnstown, New York; Knit Wool Gloves; 10 percent; October 23, 1942. (This certificate replaces ones bearing expiration dates of November 1, 1941 and November 8, 1941.)

Hosiery

Bear Brand Hosiery Company, 205 E. 21st Street, Gary, Indiana; Seamless and Full Fashioned Hosiery; 5 percent; October 23, 1942.

Bear Brand Hosiery Company, Kankakee, Illinois; Seamless and Full Fashioned Hosiery; 5 percent; October 23, 1942.

Bear Brand Hosiery Company, 1300 Washington Street, Henderson, Kentucky; Seamless Hosiery; 5 percent; October 23, 1942.

Chalfont Hosiery Mills, Chalfont, Pennsylvania; Full Fashioned Hosiery; 5 percent; October 23, 1942.

Crystal Hosiery Mill, Peacock Avenue, Denton, North Carolina; Seamless Hosiery; 5 learners; June 23, 1942.

Infants Socks, Incorporated, 235 Superior Street, Fond Du Lac, Wisconsin; Seamless Hosiery; 5 percent; October 23, 1942.

Moers Mill, Inc., Watertown, Tennessee; Seamless Hosiery; 25 learners; June 23, 1942.

Peerless Hosiery Mills, Inc., Anthony Street, Burlington, North Carolina; Seamless Hosiery; 5 learners; October 23, 1942.

Regal Hosiery Company, 222 Pearl Street, Reading Pennsylvania; Seamless Hosiery; 10 learners; June 23, 1942.

Rodgers Hosiery Company, Inc., Brookwood Drive and Hillcrest Street, Athens, Georgia; Full Fashioned Hosiery; 5 percent; October 23, 1942.

Textile

Buffalo Woven Label Works, Inc., 567 Washington Street, Buffalo, New York; Woven Labels; 2 learners; October 23, 1942.

Cabin Crafts, Dalton, Georgia; Bedspreads; 13 learners; April 16, 1942.

Wintuft Corporation, Ringgold, Georgia; Bedspreads; 5 percent; May 8, 1942.

Signed at Washington, D. C., this 22d day of October 1941.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 41–7969; Filed, October 22, 1941; 11:59 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 1–1770]

IN THE MATTER OF PROCEEDING UNDER SECTION 19 (a) (2) OF THE SECURITIES EXCHANGE ACT OF 1934 TO DETERMINE WHETHER THE REGISTRATION OF LEHI TINTIC MINING COMPANY COMMON STOCK, $1 PAR VALUE, ASSESSABLE, SHOULD BE SUSPENDED OR WITHDRAWN

FINDINGS AND ORDER OF THE COMMISSION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of October, A. D. 1941.

Appearances: John L. Geraghty, for the Registration Division of the Commission.

The Lehi Tintic Mining Company has listed on the Salt Lake Stock Exchange and registered with the Commission its common stock, $1 par value, assessable. On August 8, 1941, the Commission instituted this proceeding, pursuant to section 19 (a) (2) of the Securities Exchange Act of 1934, to determine whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding 12 months or to withdraw the registration and listing of registrant's common stock.

The order instituting the proceeding set forth as the issues to be determined by the hearing:

(1) Whether the registrant has failed to comply with section 13 (a) of the Act and the Commission's rules promulgated thereunder in failing to file its annual report for the fiscal year ended September 30, 1940; and

(2) If so, whether it is necessary or appropriate for the protection of investors to suspend or withdraw the registration of its common stock.

After appropriate notice to the registrant, the Salt Lake Stock Exchange, and the public, a hearing was held before a trial examiner in Denver, Colorado. The trial examiner filed an advisory report in which he found that, in contravention of section 13 (a) of the Act and the Commission's rules thereunder, the registrant failed to file its annual report for the fiscal year ended September 30, 1940.[1] No exceptions to the trial examiner's report have been filed and no objection to the withdrawal of listing and registration has been made either by the Salt Lake Stock Exchange or the registrant.[2] Upon an independent review of the record we adopt the aforementioned finding of the trial examiner as being in accord with the record.

The registrant is a corporation organized under the laws of the State of Utah. Its business is that of an operating mining company but it has been inactive for several years. Trading in the stock of the registrant has been suspended by the Salt Lake Stock Exchange since March 4, 1940.

We find that the registrant has failed to comply with the statute and the rules thereunder in the respects noted above, and that it is necessary and appropriate for the protection of investors that the listing be withdrawn. Cf. *North European Oil Corporation*, 9 S. E. C. (1941), Securities Exchange Act Release No. 2987.

Accordingly, it is ordered that the listing and registration of the common stock, $1 par value, assessable, of the Lehi Tintic Mining Company on the Salt Lake Stock Exchange, a national securities exchange, be and it hereby is withdrawn.

By the Commission (Chairman Eicher, Commissioners Healy, Pike, Purcell, and Burke).

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41–7963; Filed, October 22, 1941; 11:23 a. m.]

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[1] Under Rule X-13A–1 the registrant is required to file its annual reports not more than 120 days after the close of its fiscal year. No annual report has yet been filed by the registrant for its fiscal year ended September 30, 1940, although such report was due to be filed not later than January 28, 1941. The registrant's counsel advises by letter that the report was not filed because the company felt that it could not pay the expense entailed in making up the report.

[2] In his letter to the Commission, counsel for the registrant stated that the company did not want to be delisted if such contingency could be avoided. However, he did not suggest any possibility that the company would take steps to file the required annual report at any time in the near future.

[File No. 31-130]

IN THE MATTER OF STANDARD OIL COMPANY (INCORPORATED IN NEW JERSEY)

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of October, A. D. 1941.

An application pursuant to the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on November 18, 1941, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That James G. Ewell or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 10, 1941.

The matter concerned herewith is in regard to an application by Standard Oil Company, a corporation organized and existing under the laws of the state of New Jersey, for exemption for itself and all of its subsidiaries, pursuant to section 3 (a) (3) of the Act, such company claiming to be only incidentally a holding company, being primarily engaged or interested in one or more businesses other than the business of a public-utility company, and (A) not deriving, directly or indirectly, any material part of its income from any one or more subsidiary companies, the principal business of which is that of a public-utility company, or (B) deriving a material part of its income from any one or more such subsidiary companies, if substantially all the outstanding securities of such companies are owned, directly or indirectly, by such holding company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 41-7964; Filed, October 22, 1941; 11:23 a. m.]

[File No. 70-416]

IN THE MATTER OF COMMUNITY POWER AND LIGHT COMPANY

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 22d day of October, A. D. 1941.

Notice is hereby given that a declaration or application (or both), has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above-named party or parties; and

Notice is further given that any interested person may, not later than October 27, 1941, at 4:45 p m., E.S.T., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-23 of the Rules and Regulations promulgated pursuant to said Act or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declaration or application, which is on file in the office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

Community Power and Light Company, a registered holding company, proposes to issue and sell to The Continental Bank & Trust Company of New York a Promissory Note in the principal amount of $390,000, said note to mature four years from its date, payable in instalments of $45,000 in six months from its date, $45,000 in twelve months from its date, and $50,000 each six months thereafter to maturity and bearing interest at the rate of 2½% per annum for the first six months and at the rate of 3½% per annum thereafter to maturity. The proceeds, together with a small amount of cash to be supplied by Community Power and Light Company, are to be used to redeem, subject to their terms, all of the outstanding Assignments and Agreements of Community Power and Light Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 41-7965; Filed, October 22, 1941; 11:24 a. m.]

[File No. 4-36]

IN THE MATTER OF EMPIRE GAS AND FUEL COMPANY AND CITIES SERVICE COMPANY

ORDER POSTPONING DATE FOR FILING OF RESPONDENTS ANSWERS AND DATE OF HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 22d day of October, A. D. 1941.

The Commission having on July 3, 1941 issued a Notice of and Order for Hearing in the above entitled proceedings directing that the respondents named therein file with the Secretary of the Commission on or before August 2, 1941 their joint or several answers in the premises and that a hearing be held on August 19, 1941 at 10 A. M. in the offices of the Commission with reference to the allegations of the said Notice of and Order for Hearing; and

The said time for filing answers and for the hearing as above having been postponed by the Commission at the request of the respondents, by orders dated July 31, 1941, August 22, 1941, September 11, 1941 and October 10, 1941; and

Cities Service Company and Empire Gas and Fuel Company having requested that the date for filing answers and for the hearing as above postponed be further postponed for the reason that the issues involved require further time for preparation for the filing of such answers and for such hearing; and

It appearing to the Commission that the request made to the Commission by the respondents is not unreasonable and may appropriately be granted;

It is ordered, That the date of filing answers by Cities Service Company and Empire Gas and Fuel Company as postponed by the Commission order of October 10, 1941 be and the same is hereby further postponed until November 13, 1941 and that the hearing date postponed by the same order of October 10, 1941 be and the same is hereby further postponed to December 4, 1941 at 10:00 in the forenoon at the same time and before the same officer of the Commission specified in the Commission's order of July 3, 1941.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 41-7966; Filed, October 22, 1941; 11:40 a. m.]